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CABINET DIRECTIVE

*The following is a Copy of a Directive
passed by Cabinet at a Meeting held on
2017/09/07*

MC2017-0344

CSSD/DM
Asst Sec/SPC
Leg Counsel
PCS/Ex Dir
FIN/DM
TB/Secretary
AG
Deputy Clerk
File

CSSD2017-003. SPC2017-017.

The Submission of the Minister of Children, Seniors and Social Development respecting Statutory Review of the Children and Youth Care and Protection Act was considered.

The following direction was provided:

- 1) The Office of the Legislative Counsel, in consultation with the Department of Children, Seniors and Social Development, is directed to prepare amendments to the Children and Youth Care and Protection Act, substantially along the lines of those outlined in Annex A and B to the Minister's Submission, for further consideration by Cabinet; and
- 2) The Department of Children, Seniors and Social Development is directed to return to Cabinet with a further analysis of the financial resources required to implement the recommended legislative amendments in Item 1) and the development of a prevention program, both of which will be subject to the 2018-19 budget process.


Clerk of the Executive Council

Department of Children, Seniors and Social Development (CSSD)**Addendum to cabinet submission (CSSD 2017 - 003) on the Statutory Review of the
*Children and Youth Care and Protection Act (CYCP Act)***

Issue: Follow up from discussion with the Premier on the optimal approaches to enhance prevention services and improve parenting capacity and outcomes for children and youth in Newfoundland and Labrador (NL), and whether legislative changes to the *CYCP Act* are required to achieve this.

Background and Current Status:

- CSSD2017-003 recommends a range of changes in the *CYCP Act* designed to improve outcomes and family preservation but CSSD did not recommend legislative changes to move beyond its current legislated role and mandate to provide services that will prevent a reoccurrence of maltreatment (tertiary prevention). CSSD currently provides supports and services to children and families to address risk factors in the family home.
- This recommendation was made based on best practices, jurisdictional information, feedback during the consultation process, and reviews that highlighted the need for CSSD to continue to strengthen child protection practice. Child protection services should maintain a priority focus on children and youth in need of protective intervention to ensure the most vulnerable children and youth receive the appropriate level of intervention and service when they have been or are at risk of maltreatment.
- The former *Child, Youth and Family Services Act (CYFS Act 2000)* contained a provision to provide services to families without a child being in need of protective intervention services. There was no framework for services, the program consisted of referrals to community services, funding to obtain services or filling systemic gaps. CSSD social workers played more of a client advocacy and service coordination role.
- Several reviews such as the Minister's Advisory Committee (2005), Turner Review and Investigation (2006) and Clinical Services Review (2008), highlighted the lack of development and funding for Family Services as well as the serious concern that child protection was not meeting the core mandate of protecting children. The Auditor General (AG) Report (2016) and reports of the Advocate for Children and Youth (ACY) on critical incidents and child deaths highlight the need for CSSD to improve compliance with policies and standards and strengthen service delivery to protect children.
- In June 2011, the *Children and Youth Care and Protection Act (CYCP Act)* was proclaimed and the Family Service provision was removed to address these concerns and to return to a focus on the core mandate of protecting children and youth. Child Protection would continue to provide tertiary prevention services where maltreatment has already or is likely to occur to address child maltreatment and prevent reoccurrence.
- CSSD continues to develop tertiary prevention services based on evidence informed and best practices to support children, youth and families involved with child protection (e.g., Triple P Parenting program, Counselling Services and Intervention Services). Triple P Parenting

Program (Triple P) is an evidenced based program that has been shown to reduce the reoccurrence of child maltreatment. Additionally, CSSD provides financial support to families involved in the Protective Intervention Program to mitigate risk to children. These prevention services include babysitting, childcare, transportation, respite, behavioral aide, parenting capacity assessments, day camp, physician expenses, infant safety, and transitional support. The cost of these services for the 2016/2017 fiscal year was \$4.2 M.

- Notwithstanding the developments that have taken place to improve prevention services with the development of new and enhanced policies, CSSD has identified gaps and barriers in the current tertiary prevention services that could be enhanced and make a positive difference to existing clients. These are referenced in option one below.

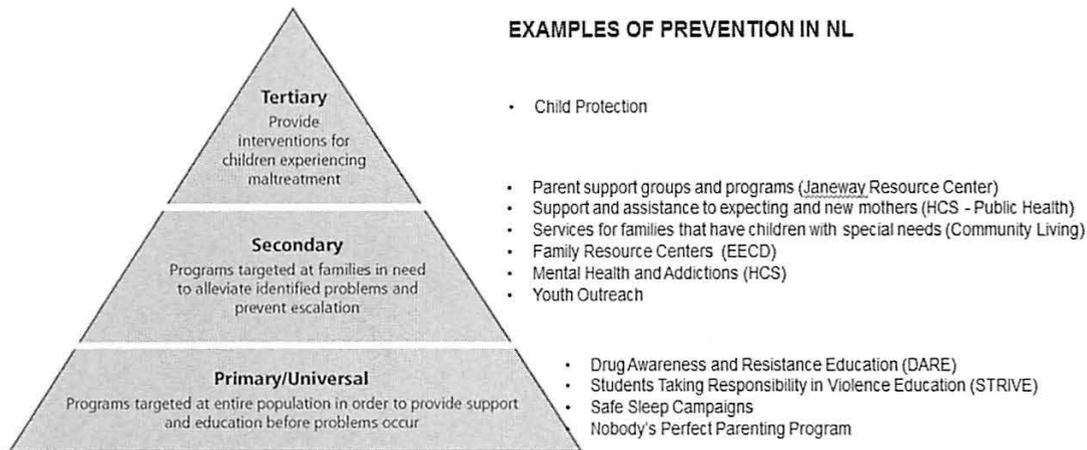
Current Status:

- There is a clear need for enhancing government's focus on parenting, emotional resiliency and family development. This has been seen through the All Party Committee on Mental Health and Addictions (APCMHA) and it is highly likely similar issues could be raised by the Premiers Task Force on Educational Outcomes.
- CSSD has agreed to lead the Mental Health Promotion/Prevention team as part of the All Party Committee on Mental Health and Addictions.
- CSSD subsequently completed an updated review of the research into jurisdictional and evidence informed best practices on programs, frameworks and service delivery models to deliver secondary prevention services to vulnerable families.
- CSSD will need to conduct consultations with other government departments within NL to inform the current status or recommendations. This work will need to be completed to inform the final recommendations to cabinet coming forward in September 2017 on the most evidenced informed approach for CSSD to take on the provision of secondary prevention services.

Jurisdictional Review and "Best Practices" for Prevention Services:

- Prevention activities occur along a continuum ranging from primary, secondary or tertiary prevention:
 - Primary prevention activities target communities or populations to provide support and education before problems occur (e.g., public awareness campaigns).
 - Secondary prevention activities target families with risk factors associated with child maltreatment to strengthen protective factors and reduce the need for more intrusive and intensive interventions (e.g., Home Visitation Program). These services are not delivered through child protection services to minimize stigma associated with this program and, to maximize uptake and accessibility at the community level.
 - Tertiary prevention activities target families where child maltreatment has already, or is likely to occur (e.g., Child Protection) to reduce the long-term implications of maltreatment and to prevent reoccurrence of maltreatment.

- The table below provides an overview of the types of prevention and examples of each type within the context of service delivery in NL.



- Eight Canadian child welfare jurisdictions (including NL) deliver tertiary prevention services to families where a child is in need of protection. In most jurisdictions (including NL), secondary prevention services are provided across government and through community partnerships.
- Four child welfare jurisdictions (NS, BC, MB & NU) can provide prevention services to vulnerable families where a child is not in need of protection by referring to community supports or providing services if available. Services available can vary across jurisdictions according to the overall mandate of the department.
- Some of the four jurisdictions noted above have initiated frameworks for prevention and early intervention that focuses on community partnerships and capacity building and in one Atlantic Child Welfare jurisdiction, a division for prevention and early intervention is established and is responsible for:
 - Family Resource Centers (FRC's) which are leveraged to deliver evidenced informed programs to strengthen children, youth and families with the goal of mitigating the need for more intrusive statutory interventions such as child protection. FRC's can serve as a hub and provide programs, services and supports in the following areas: Parent Education and Learning, Family Support, Child and Youth Development and Community linkages.
 - Youth outreach programs that are offered through existing community agencies such as Boys and Girls Clubs, Native Councils and Youth Centers. Services provided depends upon the organization, capacity and existing resources but may include drop in, crisis management, supportive counselling, referrals and linkages, outreach, family work and mentoring.
 - Service contracts with 3rd parties in the community to develop and deliver services that focus on promoting safe, stable and nurturing relationships and environments for children

and families through community based programs, services and supports that address their holistic needs.

- Jurisdictions have taken the approach that effective prevention and early intervention services require a collaborative cross-departmental and cross-sectorial approach. Integration with other government departments is necessary, as many of the services children, youth and families require are not delivered under one department or agency (e.g. mental health).
- Research on prevention highlights that proactive and an early approach to service provision is critical to supporting vulnerable families and to mitigate risk issues that are exacerbated when supports are not provided. Protective factors are necessary in order to have healthy children, families and communities. Services should be accessible in the community and non-stigmatizing in order to support families. Community agencies are critical to providing secondary prevention services and the role of government is to set policy and standards and to provide oversight and monitoring.
- Research also indicates that services must be made available to prevent reoccurrence of child maltreatment when families become involved with child protection.
- Legislative changes to the *CYCP Act* are not required to address gaps in prevention services to vulnerable families and could be developed through policy within government and in collaboration with community partners.
- Including references to prevention in child protection legislation would likely compel CSSD social workers to provide services and may have an impact on the delivery of child welfare services in NL if the focus of social workers is not solely on the protection of children. The options outlined below take into consideration these factors.

Proposed Options:

1. CSSD to enhance prevention by a) improving tertiary prevention services and b) playing a leadership role in the development of secondary prevention services (Recommended).

a) Additional development of tertiary prevention services includes:

1. expanding Triple P to parents of children in care to include an additional Behavior Management Specialist in Metro, Central, Western and Labrador regions to offer these groups.
2. expanding the Counselling Services program outside of Metro Region to Central, Western and Labrador.
3. restoring funding that was removed through GRI for transportation for CSSD clients, and
4. exploring a family preservation model, which is designed to maintain children safely in their homes and prevent the unnecessary separation of families.

The cost analysis for additional tertiary prevention enhancements outlined above is included in Annex A. CSSD will return to cabinet in the fall 2017 with details on the family preservation model selected and any associated cost.

- b) Establish a Family Development Division with a dual mandate of client service and building prevention and early intervention capacity:
- Division would be responsible for research and policy development, establishing service standards, oversight and monitoring of community agencies, and cross government coordination. Models for staffing at the regional level would focus on service coordination, system navigation for clients and community capacity building. The goal is to link families with existing services to strengthen key protective factors associated with reduced incidence of child maltreatment (e.g., Healthy Baby's Clubs).
 - CSSD would report back to Cabinet in September 2017 following consultations with other government departments to provide additional detail on structure, framework for services, roles and responsibilities and financial implications. CSSD will lead actions on the Mental Health Promotion/Prevention Team as part of the All Party Committee on Mental Health and Addictions and could create linkages to other horizontal initiatives that would support a focus on secondary prevention such as the Premiers Council on Educational Outcomes.

Pros:

- Demonstrates a strong commitment of government to address social conditions affecting vulnerable families in NL.
- Dedicated division to ensure evidence informed prevention programs are provided to children, youth and families within their own communities.
- Programs would be targeted towards vulnerable families to address issues that lead to child maltreatment. This will help address the program growth issue facing CSSD through prevention work to mitigate issues that result in families becoming involved with child protection. It will also help strengthen protective factors in vulnerable families.
- Frontline CSSD child protection workers will not be used for case management or the delivery of the secondary prevention programs. Therefore, they can continue to focus on tertiary prevention services where maltreatment has already or is likely to occur to address child maltreatment and prevent reoccurrence.
- Does not require a legislative change to the *CYCP Act*.

Cons:

- Additional resource investment required to establish this division and potential restructuring within departments to align FRCs, and possibly other programs, with CSSD.

2. Legislate the provision of secondary prevention services within the *CYCP Act* (Not Recommended).

Under this option, government would include a family services provision in the *CYCP Act* to allow the department to develop and deliver secondary prevention services to vulnerable families. Eligibility will not be contingent on involvement with the child protection program. If it followed past practice this would mean staff would carry caseloads focused on family services within the Child and Youth Services delivery branch.

Pros:

- Provides legislative support to develop programs for vulnerable families to address issues that could lead to child maltreatment.

Cons:

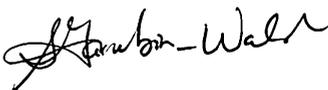
- Without a dedicated division and resources for prevention and early intervention, prevention programs for vulnerable families may not be developed in the community and default to front line CSSD social workers to provide short term case management and referral services. A case management approach will not increase the number of evidenced informed prevention programs available in this province. This may lead to potential criticism from the public due to lack of services at the community level.
- Adding this service on top of an already mandated program may impact service delivery within the core mandate of child protection.
- Potential criticism from the Auditor General and the Advocate for Children and Youth based on their feedback to CSSD on the current issues facing the child protection program.
- A new framework for practice that includes a multi-response model is required so that children in need of protection will receive the correct response and are not placed at risk due to screening errors.
- Increased resources would be needed to do this additional work to maintain the 1-20 caseload ratio model for CSSD social workers.

3. Status Quo as outlined in the cabinet submission (Not Recommended).

Prepared/Approved by: C. Smith/M. Shallow/R. Healey

Ministerial Approval:

Date: June 29, 2017



ANNEX A

Cost Estimates for Additional Development of Tertiary Prevention Services

Tertiary Prevention Service	Annual Cost Estimates
<p>Expand Triple P to include parents of children in care. Cost to hire four additional Behavior Management Specialist (1 Metro, 1 Labrador, 2 Central/Western Region) (4x \$70,000).</p> <p>Each BMS will deliver 3 group sessions per year. Each group session is estimated to cost approximately \$1000 x 12 sessions which includes program materials and costs related to transportation and babysitting.</p>	<p>\$280,000</p> <p>\$12,000</p>
<p>Expand the Counselling Services program outside of Metro to include 3 additional Social Worker III positions in Labrador, 2 in Central/West Region (3X\$90,000)</p>	<p>\$270,000</p>
<p>Restore funding removed through GRI* (get name) related to transportation for CSSD clients. For fiscal years 16/17 and 17/18 a total of \$864,300 has been removed from CSSD budget and a further \$370,300 reduction is included in the forecast for 18/19.</p>	<p>\$1,234,600</p>
<p>Explore a family preservation model which is designated to maintain children safely in their homes and prevent the unnecessary separation of families</p>	<p>Costs unknown that this time, CSSD will return to cabinet in fall 2017</p>
<p>Total Estimated Annual Costs</p>	<p>\$1,796,600</p>

*GRI – Annual Reduction of 10% for three Years (2016/17 - 2018/19) in Program Transportation Costs.

CONFIDENTIAL:

CSSD2017-003

MEMORANDUM TO EXECUTIVE COUNCIL:**TITLE:** Statutory Review of the *Children and Youth Care and Protection Act* (the *Act*)**ISSUE:** Whether to engage with legislative counsel to draft amendments to the *Act***RECOMMENDATIONS:**

It is recommended that:

1. Legislative Counsel be directed to engage with the Minister of Children, Seniors and Social Development (CSSD) to draft amendments to the *Act* substantially along the lines of those outlined in Annex A and Annex B.
2. The financial resources required to implement the recommended legislative amendments be approved in principle, subject to the 2018-19 budget process.

BACKGROUND:

The *Children and Youth Care and Protection Act*, SNL 2010 (the *Act*), proclaimed June 30, 2011, provides authority for child protection, in care and youth services to children, youth and families. The purpose of the *Act* is to promote the safety and well-being of children and youth who are in need of protective intervention by omission or commission of a parent. CSSD commenced the required five year statutory review on June 30, 2016 and conducted in-person and virtual dialogue sessions, focus groups, questionnaires, written submissions and surveys (Annex C). The six policy areas for the review with analysis and recommendations are outlined in Annex A. CSSD has also identified sections in the *Act* that require minor legislative adjustments outlined in Annex B.

Enhance information sharing

Information sharing in child welfare is integral to effective child protection practice, essential for collaborative practice and aids in the ability to complete more accurate and comprehensive

assessments. Ten jurisdictions have provisions for information sharing in their legislation (Annex D).

Feedback during the consultation process highlighted that CSSD should be able to share more information with service providers, police and Indigenous Governments/Organizations to improve coordination of services and supports.

Enhancements to information sharing will support CSSD in its efforts to make improvements in practice and incorporate collaborative decision-making processes, such as Family Group Conferencing, particularly in Indigenous communities. This will support the department's ability to maintain more children and youth in their own homes and possibly reduce the number of children/youth in care. This may result in cost savings for CSSD.

Strengthen prevention services to support families and reduce the risk of child maltreatment

In seven out of 12 jurisdictions, including NL, child protection legislation focuses on the provision of services where a child is in need of protection and in five jurisdictions families can avail of prevention services where the child is not in need of protection. Feedback during the public consultations indicated there are gaps in prevention services to assist vulnerable families, however, there were differing views on how these services should be delivered (e.g., CSSD or other government departments).

Recent reports from the Auditor General and the Office of the Child and Youth Advocate indicate CSSD needs to improve compliance with its current policies and procedures to effectively manage the safety, well-being and development of children in need of protection.

CSSD recommends the *Act* maintain its focus on protection of children while enhancing provisions to support families and enable children to remain at home where it is safe to do so. A stronger focus on family preservation could result in more children and youth being supported at home and result in potential cost savings for the department.

In addition, CSSD will continue to partner with government and community stakeholders (e.g., Family Resource Centres), and strengthen existing partnerships with Indigenous Governments/Organizations to address concerns related to primary prevention and early intervention supports for vulnerable families. To address issues raised regarding gaps in

prevention services, CSSD is recommending the development of an Interdepartmental Committee on Prevention Services to vulnerable families.

Provide legislative authority to develop a licensing and regulation regime for out-of-home placements for children and youth in care

CSSD is mandated to ensure that children and youth who cannot safely remain at home due to maltreatment concerns, are placed in an approved foster home or residential placement. Despite sustained efforts to recruit and support foster parents, there are not enough foster homes to meet the demand of the increasing number of children coming into care. Lack of available foster homes can result in children being placed in more costly residential arrangements.

To help address this issue, CSSD implemented two pilot programs designed to support foster parents, prevent placement breakdown and reduce the demand for residential placements. Evaluation has shown early success in the use of non-government organizations (NGOs) to efficiently recruit and retain homes, provide wrap around supports for children/youth with complex needs and large sibling groups, and prevent placement breakdowns. There were significant savings identified through this evaluation.

The development of a licensing and regulation regime for foster homes and residential placements developed and operated by NGOs could lead to a reduction in the resources required in CSSD to do this work and could address some of the current fiscal demands on CSSD for high cost residential placements. It will also provide greater accountability and protection for government in the delivery of these services. CSSD will establish policy and programs in this area prior to developing and operationalizing any licensing and regulatory regime. Proposed legislative enhancements will enable future program and policy development in this area.

CSSD is recommending that the *Act* be amended to permit the creation of a licensing and regulation regime for foster homes and residential placements.

Improve permanency planning for children and youth in care

If children are removed from their families, permanency planning efforts either focus on reunification with their family when it is safe to do so, or a permanent placement through custodial guardianship or adoption.

Child welfare agencies use a variety of strategies to achieve permanency. One example is the ability to transfer custodial guardianship to a relative/significant other before or after continuous custody has been granted.

CSSD is recommending strengthening and supporting permanency planning to enable more children/youth to reside in a permanent family and not in the care and custody of a manager. While there may be some costs associated with supporting families with legal costs and ongoing financial subsidy, these costs are less than maintaining a child/youth in care. Additionally, CSSD could realize cost savings in human resources required to provide oversight and monitoring of children/youth in foster homes and residential placements.

Improve services to youth in need of protection by removing barriers and extending services

The Mandate Letter (December 2015) to the Minister of CSSD commits to reviewing the Youth Services (YS) program and notes it should not ‘discriminate’ based on whether a youth was in care at 16. During consultations, many stakeholders felt the YS program is too restrictive and prevents youth from receiving necessary services.

CSSD is recommending the following enhancements to the YS program to identify and support youth in need of protection: 1) Changes in the eligibility requirements to apply the same eligibility criteria to all youth and provide for greater flexibility; 2) Increasing the mandatory reporting age of maltreatment (duty to report) to include youth in order to increase the likelihood that vulnerable youth in need of protection are identified; and 3) Removing the option for youth in continuous custody to leave care at 16.

With these changes, vulnerable youth who are in need of protection will be identified and have the opportunity to avail of services, supports and case management at a critical time in their life. Many of these youth are transitioning out of the child welfare system and into adulthood and do not have the family supports other youth may have. With the proposed changes, CSSD will need to develop strong linkages with adult systems, such as Income Support, to assist youth transitioning from CSSD. CSSD would take the lead role on engaging and working with other departments to further develop transition policy for youth who are exiting out of the child welfare system. This in turn could contribute to more cost efficient program delivery. Financial

implications related to proposed amendments for the YS program are \$1,586,692. Annex I outlines details on specific cost areas.

Improve services to Indigenous children, youth and families

In nine jurisdictions, child welfare legislation contains references to Indigenous children/youth and their communities and culture. These jurisdictions also have notification processes to Indigenous Governments/Organizations of child protection cases and court matters (Annex D). In NL, the only Indigenous consideration in the legislation refers to Labrador Inuit rights under the *Labrador Inuit Land Claims Agreement*. CSSD consulted with the Nunatsiavut Government (NG), the Mushuau and Sheshatshiu Innu First Nations (IFN), the Miawpukek First Nation (MFN) and the Nunatukavut Community Council (NCC) who recommend and support legislative changes to enhance responses to Indigenous children, youth and families (Annex F).

CSSD is recommending legislative amendments to ensure the *Act* is consistent with other jurisdictions and best practices, which recognize the importance of Indigenous culture and identity. These amendments will: 1) Support collaboration with Indigenous Governments and Organizations through their involvement in decision making, planning and support for Indigenous children, youth and families; and 2) Include a legislative provision to allow the Minister to delegate service delivery to Indigenous agencies. These amendments will support efforts to reduce the number of Indigenous children and youth in care and help address the large numbers of children/youth being removed from their culture and community. Significant potential cost savings could be realized if children/youth can be supported in their own home or community.

Minor legislative adjustments

CSSD is proposing minor legislative changes to the *Act* as outlined in Annex B. These changes are technical in nature and address procedural issues identified by CSSD and Department of Justice and Public Safety (JPS) that are aligned with the spirit and intent of the *Act*, or reflect current or best practice.

ALTERNATIVES:

1. Legislative Counsel be directed to engage with the Minister of Children, Seniors and Social Development (CSSD) to draft amendments to the *Act* substantially along the lines of those outlined in Annex A and Annex B. The financial resources required to implement the recommended legislative amendments be approved in principle, subject to the 2018-19 budget process. **(Recommended)**

Advantages:

- Government will have fulfilled its statutory requirement to review the legislation.
- Strengthens the response to protection of Indigenous children, youth and families.
- Provides the Department with the ability to develop a licensing and regulation regime to partner with community agencies to address placement needs.
- Achieves the Minister's mandate regarding the Youth Services Program.
- Enhances supports for youth in need of protection who are making the transition to adulthood.
- Potential cost savings resulting from a focus on family preservation and less children coming into care.
- Addresses CSSD's commitment in The Way Forward regarding mitigating strategies for growth in child protection and in care service areas.

Disadvantages:

- Implementing the proposed changes to the Youth Services program will require upfront investment for human resources and program funding.
- Potential criticism regarding the ability to develop a licensing and regulation regime to allow agencies to recruit, assess and approve foster homes.
- Indigenous groups may express that the legislation does not go far enough to address specific issues identified by each group.
- Potential criticism that CSSD is not expanding its mandate to include primary prevention and early intervention with families whose children are not in need of protection.

2. Legislative Counsel be directed to engage with the Minister of Children, Seniors and Social Development (CSSD) to draft amendments to the *Act* substantially along the lines of those outlined in Annex A (except in the Youth Services recommendations, only implementing the recommendation to change eligibility requirements to remove discrimination) and Annex B. The financial resources required to implement the recommended legislative amendments be approved in principle, subject to the 2018-19 budget process. **(Not Recommended)**

Advantages:

- Government will have fulfilled its statutory requirement to review the legislation.
- Strengthens the response to protection of Indigenous children, youth and families.
- Provides the Department with the ability to develop a licensing and regulation regime to partner with community agencies to address placement needs.
- Achieves the Minister's mandate regarding the Youth Services program.
- Potential cost savings resulting from a focus on family preservation and less children coming into care.
- Addresses CSSD's commitment in The Way Forward regarding mitigating strategies for growth in child protection and in care service areas.

Disadvantages:

- Implementing the proposed changes to the Youth Services program will require upfront investment for human resources and program funding.
- Potential criticism that the changes to the Youth Services program are insufficient to meet the needs of vulnerable youth.
- Potential criticism regarding the ability to develop a licensing and regulation regime to allow agencies to recruit, assess and approve foster homes.
- Indigenous groups may express that the legislation does not go far enough to address the specific issues identified by each group.
- Potential criticism that CSSD is not expanding the mandate to include primary prevention and early intervention with families whose children are not in need of protection.

3. **Maintain status quo (Not Recommended)**

Advantages:

- Additional resources to implement the proposed changes will not be required.

Disadvantages:

- Potential criticism if Government does not proceed with any changes after announcing the review publically.
- May result in increased costs to government if legislative changes are not made to support initiatives to address program growth issues.
- The Minister's mandate regarding the Youth Services program will not be met.

LEGAL/LEGISLATIVE CONSIDERATIONS:

JPS stakeholders have noted that changes to the *Act* would not substantially alter the current resource issues facing the courts. The current proposal to provide notice and enhanced participation by Indigenous groups in child protection court proceedings could lead to demands on court resources including: number and length of court hearings, need for translators, increased demands on JPS solicitors as well as legal aid counsel. The degree of impact is speculative until it is determined how frequently, and in what way, Indigenous groups may exercise any ability to participate in court proceedings.

FINANCIAL CONSIDERATIONS:

The current proposal to provide notice and enable participation of Indigenous groups in court proceedings and sharing of information for the purposes of case planning and integrated service delivery could lead to demands on CSSD resources. The degree of impact is speculative until it is determined how frequently, and in what way, Indigenous groups may exercise any ability to participate in court proceedings and case planning.

A focus on family preservation and supports to maintain children/youth in the family home will assist CSSD in meeting commitments outlined in The Way Forward related to growth in the child protection and in care programs. While there may be some cost identified to implement the recommended amendments, a stronger focus on family preservation could result in potential cost savings with more children and youth being supported in the family home as opposed to in care. Further savings could be realized through the amendments to the *Act* to develop a licensing regime to allow NGOs to develop and operate residential placements and to recruit, assess,

approve and support foster homes. Financial implications are related to proposed amendments to the legislative provisions for services to youth for a total cost of \$1,586,692 (Annex I provides details on specific cost areas).

INTERDEPARTMENTAL CONSIDERATIONS:

Consultations were held with representatives in the following departments: Advanced Education, Skills and Labour (AESL), Education and Early Childhood Development (EECD), Women's Policy Office (WPO), former Department of Seniors, Wellness and Social Development (now CSSD), Health and Community Services (HCS), Justice and Public Safety (JPS), Office of Labrador Affairs (OLA) and Intergovernmental and Indigenous Affairs Secretariat (IIGA), on the six policy issues under consideration during this review. Policy Innovation and Accountability Office (PIAO), Department of Finance, AESL, EECD, WPO, HSC, JPS, OLA, IIGA, Access to Information and Protection of Privacy Office, and Communications and Public Engagement have reviewed this paper.

CSSD is committed to keeping the OLA informed of the changes to legislation and where appropriate, will engage IIGA during drafting and preparing the amendments with respect to the changes relating to Indigenous children and youth. Additionally, CSSD intends to consult with the Office of the Information and Privacy Commissioner (OPIC) when the bill is drafted.

The WPO advises that women are more likely than men to perform childcare. We concur that women are often the primary caregivers in families. CSSD collects demographic information on children, youth and families receiving services, however, the client data does not differentiate between which parent is the primary caregiver in a family. Information is collected on all family members involved in the protection program, and an analysis of all caregivers involved demonstrated that 52% of caregivers involved are female and 48% are male. A review of children and youth receiving services through the In Care program found that 45% were female and 55% were male; and, a similar review of the Youth Services program found that 47% were female and 53% were male. This is consistent with the gender breakdown in current population demographics for the province. Annex H provides a preliminary overview of the impact of legislative and regulatory changes, for clients, stakeholder and government.

A Regulatory Impact Analysis and an Accountability Framework will be prepared concurrent with drafting revisions to the *Act*.

LABRADOR OR INDIGENOUS CONSIDERATIONS:

The Nunatsiavut Government (NG), the Mushuau and Sheshatshiu Innu First Nations (IFN), the Miawpukek First Nation (MFN) and the Nunatukavut Community Council (NCC) were consulted and support legislative changes in the following areas: improving information sharing; notifying Indigenous representatives of child protection involvement and court matters; acknowledging Indigenous culture when considering the child's best interests and out-of-home placement needs; and allowing the Minister to delegate service delivery to Indigenous agencies. The Qalipu Mi'kmaq First Nation (QFN) was invited to consult but no response was received (Annex F).

INTERGOVERNMENTAL CONSIDERATIONS:

The provision of child welfare services is under provincial jurisdiction so there are limited intergovernmental considerations. NL is a signatory to the *Provincial/Territorial Protocol on Children, Youth and Families Moving Between Provinces and Territories*, which is largely operational and used to monitor the placement of children/youth in out-of-province placements and Interprovincial adoptions. Federal funding for child protection programs in the Innu communities of Natuashish and Sheshatshiu is provided to the Province through a funding agreement with Indigenous and Northern Affairs Canada (INAC). This is in addition to funding the federal government provides directly to the Mushuau Innu Health Commission (Natuashish) and the Sheshatshiu Innu Social Health Division for health and social programs to the Innu of Labrador. The MFN receives funding directly through INAC.

OTHER JURISDICTIONS:

CSSD completed a jurisdictional scan of child welfare legislation. The general provisions in each jurisdiction are similar and based upon the best interests of children and youth; however, they are impacted by local demographics and service delivery structures (Annex D).

CONSULTATIONS:

CSSD worked with Communications and Public Engagement to customize the consultation process which occurred between September 1 and December 31, 2016. A discussion guide was posted online to seek public feedback (Annex E). Stakeholder engagement sessions and dates can be found in Annex C and the draft “What We Heard” document is located in Annex J. CSSD expects to post the “What We Heard” document in the coming weeks.

ENVIRONMENTAL CONSIDERATIONS:

No environmental implications.

COMMUNICATIONS SYNOPSIS:

The Communications Plan is attached in Annex G

ANNEXES:

Annex A - Policy Issues

Annex B - Minor Legislative Adjustments

Annex C - Summary of Consultations and Submissions

Annex D - Jurisdictional Scan

Annex E - Discussion Guide

Annex F - Summary of Indigenous Submissions and Consultations.

Annex G - Communications Plan

Annex H - Preliminary Regulatory Impact Analysis

Annex I - Financial Analysis Youth Services Amendments

Annex J - What We Heard Document

SHERRY GAMBIN-WALSH, MHA

Placentia-St. Mary's

Minister

April 10, 2017

ANNEX A
Summary of Policy Issues

Section	Title	Identified Issue	Recommendation
1. DISCLOSURE AND INFORMATION SHARING			
s.73	Disclosure without consent	<p>The current limits on disclosure of information impede the efforts of CSSD to: (1) collaborate with its partners when it is in the child or youth's best interest to do so; and (2) to share information for the purposes of case planning and integrated service delivery.</p> <p>Reports issued by the Office of the Child and Youth Advocate (e.g., <i>A Tragedy Waiting to Happen</i>) have identified issues with collaboration, communication and information sharing. Child death and critical incident reviews often highlight failures in communication between professionals as contributing factors and a necessary area for improvement (e.g., <i>Turner Review and Investigation - NL</i>).</p>	<p>Amend s.73 (Disclosure without Consent) to allow information sharing when it is in the <i>best interest</i> of the child, as opposed to only when it is <i>necessary</i> to ensure the safety, health or well-being of a child. This change would be consistent with the best interest principles of the <i>Act</i>, which are the paramount consideration used to guide decision making for children and youth.</p> <p>Include a residual authority for the Minister to designate circumstances where the release of information without consent is authorized (e.g., police investigations).</p>
s.74	Right to information and information sharing	<p>Current provision allows a social worker to obtain information with respect to a child or youth that is <i>necessary</i> to perform their duties or functions under the <i>Act</i>.</p> <p>Clarity is required as to whom the information applies to, when a social worker can obtain the information, and what actions can be taken if the information is not provided.</p> <p>Under s.42 of the <i>Personal Health Information Act (PHIA)</i>, custodians</p>	<p>Amend s.74 to clarify that a social worker is able to obtain information <i>necessary</i> for all purposes related to their duties under the <i>Act</i>, including during investigation, assessment and ongoing protective intervention services.</p> <p>Clarify that information related to the parent's issues that may impact the safety of the child/youth (e.g., addictions), will be disclosed to CSSD rather than just information about the child/youth.</p> <p>Include a provision that where information is not forthcoming, a</p>

		(e.g., physicians, addiction counsellors) are mandated to disclose personal health information without the consent of the individual who is the subject of the investigation for the purposes of an investigation being conducted, or similar provision, under the <i>CYCP Act</i> . The recommended change will merely confirm that this information can be disclosed under the <i>CYCP Act</i> , as opposed to under <i>PHIA</i> , and ensure that entities outside the scope of <i>PHIA</i> have equivalent requirements.	social worker will be able to seek a court order to obtain the information if a judge is satisfied that the grounds are met.
Section	Title	Identified Issue	Recommendation
2. PREVENTION			
s.8	Purpose	The focus of child welfare is to promote the safety, well-being, and permanency of children/youth by helping families care for their children/youth successfully or, when that is not possible, helping children/youth find permanency. This principle should be acknowledged in the <i>Act</i> .	Enhancements to the purpose and best interest principles sections of the <i>Act</i> to further support the practice of family preservation where it is in the best interest of children/youth and their safety and security is the paramount consideration. These enhancements would support current practice that wherever appropriate and safe for a child, CSSD would offer services to maintain, support and preserve the family in the least disruptive manner that would adequately protect the child.
s.9	General principle		
No legislative change required.		Primary prevention and early intervention supports for vulnerable families who are not involved with Child Protection.	To address concerns related to primary prevention and early intervention supports for vulnerable families who are not involved with Child Protection, CSSD will continue to explore opportunities to partner with government and community stakeholders (e.g., Family Resource Centres) and, continue to strengthen existing partnerships with Indigenous

			Governments/ Organizations on prevention initiatives underway (e.g., federal funding initiatives). CSSD is also recommending Government develop an Interdepartmental Committee on Prevention Services to vulnerable families.
Section	Title	Identified Issue	Recommendation
3. LICENSING AND REGULATIONS			
New Section		<p>CSSD needs to enhance the current options of out- of home care for children/youth in care and increase accountability through licensing and establishment of regulatory standards. The current <i>Act</i> does not allow NGO's to approve placement resources.</p> <p><u>Background</u> In 2012, CSSD developed a strategy to address placement challenges (e.g., lack of foster homes and placements for complex needs children/youth) through the development of a new level system for out-of-home placements (MC2012-0063 refers). The strategy included enhancements to family based and residential placements. Despite enhancements and sustained efforts to recruit foster parents, the demand is higher than the number of available family based placements.</p>	CSSD is recommending that the <i>Act</i> be amended to permit the creation of a licensing regime for family based and residential placements to allow agencies to: 1) develop and operate residential placements; 2) recruit, assess, approve, operate and support specialized foster homes; and, 3) recruit, assess, approve and support regular foster homes. This would also include legislative authority for developing regulations in support of same and would reflect current policies, procedures and standards for out-of-home placements. To ensure quality services, CSSD would maintain monitoring and oversight of the licensed agencies. The establishment of regulations strengthens the ability of CSSD to monitor these agencies.
Section	Title	Identified Issue	Recommendation
4. PERMANENCY PLANNING FOR CHILDREN/YOUTH IN CARE			
s.35(1)(b)	When time limits expire	s.35(1)(b) does not outline the process for seeking an order under this section. In addition, it can only be used when all temporary custody orders have been exhausted. This	To strengthen and support permanency planning, CSSD is recommending that s.35(1)(b) be amended to clarify the process for seeking an order to place a child in

		prevents timely permanency planning for children.	the custody of another person, and to permit this order to be granted prior to the expiration of all the temporary custody orders and not just after all orders have expired.
s.41(1)(c)	When continuous custody order ceases to have effect	s.41(1)(c) does not outline the process for transferring custody to another person which impacts permanency planning.	s.41(1)(c) be amended to clarify the process for transferring custody to another person.
s.29	Plan for the child	s. 29 only requires a social worker to describe the arrangements made or being made for a child's stability and permanency when a continuous custody order is being sought as opposed when other custody orders are being sought (e.g., temporary). Permanency planning should start earlier.	s.29 (Plan for the child) be amended to require a description of the arrangements made or being made for the child's permanency for all custody applications, not only those where the manager is applying for continuous custody.
Section	Title	Identified Issue	Recommendation
5. YOUTH SERVICES			
s.11	Duty to report	Youth over 16 should have the same access to protection services as children less than 16 years of age. If a person has information that a youth may be in need of protective intervention they should have a duty to report this information to CSSD. Currently there is no duty to report if a youth is in need of protective intervention.	Amend s.11 (Duty to Report) to extend the mandatory reporting of maltreatment from 16 to 18. If a report was received regarding a youth, the youth's participation in the YS program would continue to be voluntary. To increase the mandatory reporting age, the <i>Act</i> will apply the same definition of child in need of protective intervention to youth in need of protective intervention.
s.41	Where continuous custody ceases to have effect	Youth who are 16 should not be given the option to make significant life decisions such as opting out of care. Mixed feedback from stakeholders on this issue but most other jurisdictions do not allow youth to leave care until 18 or 19.	Amend s.41(d) to remove the ability for youth to opt out of continuous custody before their 18 th birthday. The "opt out" provision was enacted in 2011 when the age to remain in custody was extended from 16 up to 18 years of age.
s.67	Youth services agreement	Youth Services program is currently too restrictive and youth who were in care at the age of 16 can receive services longer than a youth who was not in care at the	Amend s.67 (YS Agreement) to provide more equitable services to youth in need of protection. Proposed changes will apply the same eligibility criteria to all youth

		age of 16, even though both youth are in need of protection.	<p>in the program to allow them to receive services until the age of 21, regardless of whether they were in care on their 16th birthday.</p> <p>CSSD is also recommending to change the eligibility requirements that a youth must participate in an educational or rehabilitation program to receive services. Amendments would change to a requirement that the youth engage in a YS plan.</p>
Section	Title	Identified Issue	Recommendation
6. SERVICES TO INDIGENOUS CHILDREN, YOUTH AND FAMILIES			
s.2	Interpretation	Indigenous child and youth are not recognized in the current <i>Act</i> .	Define Indigenous child/youth in the <i>Act</i> including First Nations, Inuit and Metis. Clarify First Nations includes Labrador Innu and Newfoundland Mi'kmaq)
s.9	General principle	The uniqueness of the Indigenous culture is not acknowledged in the <i>Act</i> .	Acknowledge the uniqueness of Indigenous cultures in the General Principle of the <i>Act</i> .
s.9	General principle	The focus of child welfare is to promote the safety, well-being, and permanency of children/youth by helping Indigenous families care for their children/youth successfully (family preservation) or, when that is not possible, helping children/youth find permanency.	Enhancements to best interest principles sections of the <i>Act</i> to further support the practice of family preservation where it is in the best interest of children/youth and their safety and security is the paramount consideration. These enhancements would support current practice that wherever appropriate and safe for a child, CSSD would offer services to maintain, support and preserve the family in the least disruptive manner that would adequately protect the child.
s.29	Plan for the child	The Plan for the child does not include a cultural continuity planning section.	Amend s.29 to include a requirement that cultural continuity planning for children/youth in care that are placed with a non-Indigenous family be included on the Plan for the child. The cultural continuity plan would

			include descriptions of how the child will maintain connections with their culture, heritage, traditions, community, language, and spirituality while in care.
s.51	Application to be heard	A social worker cannot serve or provide designated Indigenous representatives information pertaining to court dates or matters. Also, the <i>Act</i> does not specifically state that designated Indigenous representatives can be heard in court.	Amend s.51 to include ability to for designated Indigenous representatives to be heard in court. Add a provision regarding notice of court matters to Indigenous Governments/Organizations.
s.62	Placement considerations	The <i>Act</i> does not specifically outline placement considerations for Indigenous children and youth. There are a high number of children and youth in care and living outside their culture and community.	Amend s.62 to include specific placement considerations for Indigenous children and youth in care. The focus should be placement within their community where possible. When this is not possible, the <i>Act</i> will outline other placement options that that are focused on protecting and nurturing a child/youth's cultural heritage.
s.73	Disclosure without consent	The current limits on disclosure of information impede the efforts of CSSD to collaborate with representative of Indigenous Governments/organizations when it is in the child or youth's best interest to do so and to share information for the purposes of case planning and integrated service delivery.	Include a provision to share information for the purposes of case planning and integrated service delivery, including with representatives of Indigenous Governments/organizations.
NEW		The current <i>Act</i> does not permit the Minister to delegate service delivery to Indigenous agencies.	Including a legislative provision to allow the Minister to delegate service delivery to Indigenous agencies.

Background on Policy Issues

The key policy areas for the review included: information sharing; prevention services; licensing and regulation of external agencies; permanency planning for children/youth in care; youth services; and services to Indigenous children, youth and families. These issues emerged during initial discussions with departments, internal CSSD staff, and legal counsel, as well as, through the engagement process. The analysis of each area is informed by the consultation process, a jurisdictional review of Canadian child protection legislation, and current best practices.

1. Information Sharing

The confidentiality and disclosure of information collected by CSSD for the purposes of child protection is governed by provisions of the *Act*, which supersede the *Access to Information and Protection of Privacy Act, 2015*. The Access to Information and Protection of Privacy Review Committee led by former Justice Wells supported this distinction, acknowledging that the confidentiality and disclosure provisions included in the *Act* recognize the sensitive and personal nature of information collected by CSSD when working with children, youth and families.

Information sharing across agencies and professionals is an integral component of child protection practice, essential for collaborative practice and aids in the ability to complete more accurate and comprehensive assessments (Thompson, 2013; Richardson, 2003). Challenges in communication between CSSD and other parties are frequently highlighted in case reviews and external investigations from oversight bodies (e.g., child advocate reviews, inquiries). There was considerable feedback received through the consultation process that highlighted the challenges of limited information sharing from CSSD staff with others involved in the care of, or service delivery to, a child/youth or their family.

CSSD's ability to access information from individuals and organizations was significantly improved under the *Act*. Any person holding information required by CSSD to protect children must provide it to CSSD. A person's consent is not required to share information with respect to a child (e.g., a mental health counsellor must share relevant information with respect to a child with CSSD, with or without a client's consent). The *Act* also provides CSSD with the authority to disclose information to another party without the consent of an individual in certain circumstances outlined in the *Act* (e.g., for research and evaluation purposes with conditions). However, as CSSD is only able to disclose information without consent when it is necessary to ensure the safety, health or well-being of a child, there are other instances when CSSD staff are unable to disclose information.

To provide additional support to these legislative changes, an Information Sharing Agreement (2013) between CSSD and the Departments of HCS, JPS, EECD and AES was signed and, the Memorandum of Understanding (MOU) for Information Sharing with the Royal Newfoundland Constabulary (RNC) and Royal Canadian Mounted Police (RCMP) were updated in 2015 and 2016 respectively.

Ten jurisdictions (including this province) have provisions allowing disclosure of information without consent. Provisions in these provinces are similar to NL's provisions; however, three jurisdictions also specify that information can be shared without consent for the purposes of case planning, integrating services, and/or shared with Indigenous Governments/Organizations.

Under s.42 of the *Personal Health Information Act (PHIA)*, custodians (e.g., physicians, addiction counsellors) are mandated to disclose personal health information without the consent of the individual who is the subject of the investigation for the purposes of an investigation being conducted, or similar provision, under the *CYCP Act*. The recommended change will merely confirm that this information can be disclosed under the *CYCP Act*, as opposed to under *PHIA*, and ensure that entities outside the scope of *PHIA* have equivalent requirements.

CSSD proposes the following enhancements to s.73 of the *Act* to:

- Share information without consent when in the best interests of the child to do so;
- Share information for the purposes of case planning and integrated service delivery, including with representatives of Indigenous Government/Organizations; and
- Include a residual authority for the Minister to designate circumstances where the release of information without consent is authorized (e.g., police investigations, JPS solicitors in civil cases).

CSSD proposes the following enhancement to s.74 of the *Act*:

- Ensure social workers are able to obtain information necessary for all purposes related to their duties under the *Act*, including investigation, assessment, and ongoing protective intervention services.
- Ensure information related to parental issues (e.g., addictions) that may impact the child is disclosed to CSSD (and not just information about the child/youth; and
- That where information is not forthcoming, social workers can seek a court order to obtain the information if a judge is satisfied that grounds are met.

2. Prevention

Prevention strategies can be categorized as broad community-based (primary), targeted community-based (secondary), and individualized (tertiary) strategies. Primary prevention activities usually target the broader community and can include public awareness campaigns that promote healthy parenting. Secondary prevention may include parent education programs that aim to develop positive parenting skills and decrease behaviors associated with child maltreatment. Tertiary prevention activities include child protection intervention where maltreatment has occurred. In these cases, individualized strategies to prevent further maltreatment are implemented. Services in each of these areas are generally provided within and across multiple government departments and community agencies.

Currently, CSSD provides services to children or youth in need of protection to prevent further maltreatment. If a referral to CSSD doesn't meet the mandate, the family is contacted and advised of available community resources that they can access outside CSSD.

Jurisdictions across Canada approach the delivery of prevention services in a variety of ways, most often through collaboration between governments and community based organizations. CSSD heard from 12 jurisdictions and in seven jurisdictions, including NL, child protection legislation focuses solely on the provision of service where a child is in need of protection. In five other jurisdictions, families can avail of prevention services where the child has not been determined to be in need of protection. Some prevention services offered in these jurisdictions

are offered in NL but do not fall under the mandate of the *Act* and are delivered through other programs in CSSD (e.g., services to birth parents – Adoptions program) or, other government departments (e.g., services for children with developmental and/or physical disabilities - Department of Health and Community Services).

The former *Child, Youth and Family Services Act* (2000-2011) included a provision to allow CSSD to support children and families without a determination that the child was in need of protection, often referred to as the Family Services Program. The interpretation of that section was not well defined in policy and there was a wide array of services being provided that were not related to the safety and well-being of a child. In many cases, the CSSD role was client advocacy and service coordination. Some of the services provided exceeded the authority in other government departments who had the mandate for these services.

In 2005, *How Are We Doing? A Report of the Minister's Advisory Committee on the Operations of the Child, Youth and Family Services Act* was released. This review concluded that adequate resources were not invested to support the principles and purpose of the *CYFS Act* and without resources the principles would continue to be compromised. The review concluded that the shift toward prevention strategies did not occur and the focus continued to be on prevention of further maltreatment rather than prevention of maltreatment in the first instance.

In 2008, the *Clinical Services Review* (conducted by Susan Abell), found families sought supportive services from the Family Services program for a variety of reasons. The review also found the type of service provided most frequently to families was a referral to another community service. Additionally, it noted some of the reasons for referral were linked to child abuse and should have required services from the Protective Intervention program instead of the Family Services program. A key finding in the Clinical Services Review (2008) was that the legislation, policies and procedures in NL failed to adequately position the safety, protection and well-being of the child as paramount.

As a result, in 2011 the *Act* was amended to clarify the purpose of the *Act* and focus interventions and services to children and youth in need of protective intervention. The Family Services program provision was removed. This change was designed to ensure focus on preventing further maltreatment of children in need of protection (tertiary prevention). Primary and secondary prevention services were to be accessed through other government departments and community resources. Service gaps to children, youth and families would continue to be identified and advocated for within government or through community agencies. Families using the Family Services program were transitioned to the Protective Intervention program, or maintained by CSSD to avoid undue hardship.

Since the removal of the Family Services program, some stakeholders, including: HCS, former SWSD and Eastern Health have reported that the removal of the Family Services provision, without a replacement, created gaps in services for vulnerable children and families. Feedback to this effect was provided during the Poverty Reduction Strategy Engagement Summit in 2015. Participants identified a need for CSSD and other government departments to provide prevention and supportive services to vulnerable children, youth and families.

Public consultations on this issue for the legislative review process elicited a range of feedback on this issue. The majority of respondents indicated there are gaps in services across the current

system and that services for primary prevention and early intervention should be available to assist vulnerable families. They viewed the mandate as broader than any one department as many preventative services are delivered through other government departments (e.g., mental health and addictions counselling). Some respondents indicated that the *Act* should provide prevention programs where the child is not in need of protection while others recommended the *Act* maintain a focus solely on child protection.

Key findings in the Auditor General Report (November, 2016) indicate CSSD needs to improve compliance with its policies and procedures to effectively manage the safety, well-being and development of children in need of protection. The Office of the Child and Youth Advocate has highlighted similar issues and the need for strengthened service delivery to ensure protection of children.

CSSD recommends that the *Act* maintain its focus on children and youth in need of protective intervention to ensure the most vulnerable children and youth receive the appropriate level of intervention and service. However, CSSD is also recommending enhancements to the purpose and best interest principles sections of the *Act* to further support family preservation where it is in the best interest of children and youth with their safety and security being the paramount consideration. CSSD provides supports and services to maintain children in the family home where it is deemed safe to do so. These services may include respite, counselling, child care, parent training, parent capacity assessments or mental health, and addictions services. Over 80% of children (4810) in need of protective intervention live at home and receive supportive services from CSSD.

To address concerns identified related to primary and secondary prevention supports for vulnerable families, CSSD will continue to find opportunities to partner with government and community stakeholders (e.g., Family Resource Centres) and continue to strengthen existing partnerships with Indigenous partners regarding prevention initiatives underway through federal funding. CSSD also recommends Government develop an Interdepartmental Committee on Prevention Services to Vulnerable Families outside of the legislation.

3. Licensing of Out-of-home Placements

Under the *Act*, CSSD is mandated to ensure children and youth who cannot safely remain at home due to maltreatment concerns are placed in either an approved family (i.e. foster home) or a residential placement. In 2012, a strategy was developed to address placement challenges (e.g., lack of foster homes, lack of placements for complex needs children/youth) through the development of a level system for out-of-home placements (MC2012-0063 refers). The strategy included enhancements to family-based and residential placements.

Despite enhancements and sustained efforts to recruit foster parents, the demand is higher than the number of available foster homes, resulting in children/youth who could be cared for in families being placed in more costly residential placements. To address this issue, in October 2015, CSSD began a pilot program with Key Assets (non-profit agency) to develop family-based placements and prevent residential placements. A financial analysis of this pilot demonstrated a costs saving of \$5,517, 000 on 31 placements. Similarly, a pilot project began in September 2015 with Waypoints (non-profit agency) to support foster parents, prevent placement breakdown, and to prevent residential placements. A financial analysis of this pilot

demonstrated cost savings of \$1,550,328 by preventing seven placements breakdowns. Evaluations of the pilots show early success in the use of agencies to recruit and retain homes, provide supported placements for children/youth with complex needs, prevent placement breakdowns, and reduce the demand for residential placements.

Due to legislative restrictions of the *Act*, homes under the Key Assets pilot are recruited and assessed by the agency, but final approval rests with the department. CSSD has a contract with the agency as well as monitoring mechanisms to oversee quality of services. Development of a licensing regime and regulations would provide greater accountability and protection for government in the delivery family-based and residential placements. Under a licensing regime, further efficiencies could be realized whereby CSSD does not have to approve agency assessments of family-based homes and can focus efforts on compliance with established standards to ensure quality service to children and youth in out-of-home placements.

The jurisdictional scan indicates there are varying legislative authorities for licensing and regulation of out-of-home placements for children/youth in care. Six jurisdictions have licensing regulations for residential placements, five have licensing regulations for specialized foster care and, four have licensing regulations for regular foster care; however, only one jurisdiction allows non-government organizations (NGOs) to license regular foster homes and two jurisdictions allow NGOs to operate regular foster homes in addition to homes operated by child welfare authorities.

Research on the use of NGOs (profit and/or non-profit) indicates there are benefits and concerns associated with contracting with NGOs for the provision of family based or residential placements. The benefits include innovation; efficiency and decrease costs through competitive bidding; and more transparent, performance based and outcome oriented child welfare systems. The concerns include contractors controlling costs by cutting services to clients or being selective of the client group they serve; negative child safety outcomes; inadequate oversight of private agencies; and negative media attention. Positive outcomes are associated with clear policy to support oversight and monitoring of these agencies; the agency's organizational characteristics (e.g., education and experience of staff); and positive relationships with stakeholders (Steen and Smith 2012).

As the current legislative authority is restrictive and requires all out-of-home placements for children/youth in care to be approved by CSSD, it is recommended that the *Act* be amended to permit the creation of a licensing regime for family based and residential placements to allow agencies to: 1) develop and operate residential placements; 2) recruit, assess, approve, operate and support specialized foster homes; and, 3) recruit, assess, approve and support regular foster homes. This would also include legislative authority for developing regulations to support the licensing approach and would reflect current policies, procedures and standards for out-of-home placements. To ensure quality services, CSSD would maintain monitoring and oversight of licensed agencies. Additionally, the establishment of regulations strengthens the ability of CSSD to monitor these agencies.

The partnerships with community agencies to provide this type of support could further enhance service delivery to existing children, youth and families with more staff time available to focus on supporting families and preventing removals.

4. Permanency Planning for Children/youth in Care

Child welfare agencies use a variety of strategies to achieve permanency for children/youth. Permanency is physical (safe and stable living environment), relational (emotional and life-long connections) and legal (such as adoption and legal guardianship) (Tilbury and Osmond, 2006; Freundlich, Avery, Munson, and Gerstenzang, 2006). Permanency planning involves decisive, goal-oriented activities to maintain children/youth within their families of origin or place them with other permanent families (e.g., kin, adoptive homes). When children must be removed from their families to ensure their safety, permanency planning focuses on returning them home as soon as it is safely possible or placing them with another legally permanent family.

Some strategies for permanency noted in the literature include early intervention to prevent child maltreatment or the reoccurrence of child maltreatment, expedited court timeframes, and expanding the option of guardianship as an alternative permanency plan (Pottle and Klein, Rothschild, 2002; Atkin, 2011).

All jurisdictions have legislative guidelines for either the maximum time a child in care can spend in temporary custody or the maximum number of temporary custody orders that can be granted. NL has a maximum number of orders that can be granted. During consultations, participants reported the number and length of temporary custody orders is satisfactory. However many identified delays court proceedings as the most significant barrier to achieving permanency. Participants also identified other barriers, including lengthy wait times or lack of available services for parents to mitigate identified children protection risks.

Research identifies the transfer of custodial guardianship as an effective alternate means to achieve permanency beyond adoption, or the least desired option: permanent foster care (Atkin, 2011). In the jurisdictional scan, British Columbia identified that the ability to transfer custodial guardianship to a relative/significant other before or after continuous custody has been granted is an option for permanency planning in that province. The *Act* currently allows for a child/youth to be placed in the temporary custody of another person (s.32), for a child to be placed in the custody of another person after temporary custody orders have expired (s.35), and for the transfer of custody after continuous custody has been obtained (s.41). The department is recommending legislative amendments to strengthen and support permanency planning by clarifying the processes to transfer custody to another person. Specifically, it is recommended that:

- s.35(1)(b) be amended to clarify the process for seeking an order to place a child/youth in the custody of another person and permit this order to be granted prior to the expiration of all temporary custody orders;
- s.41(1)(c) be amended to clarify the process for transferring custody to another person; and,
- s.29 (Plan for the child) be amended to require a description of the arrangements made or being made for the child's permanency for all custody applications; not only those where the manager is applying for continuous custody.

5. Services to Youth

The Youth Services (YS) program was introduced in 2000 to address gaps in services to vulnerable youth (16 to 18 years of age) who were not eligible for services through income support or child welfare when they were not able to reside safely at home. The YS program assists youth who are:

- in need of protective intervention as they cannot live safely at home;
- transitioning out of the in care program (e.g., foster care) to independent living; and/or
- transitioning home from the in care program (e.g., foster care) with transitional supports.

The YS program is a voluntary program focused on areas of a youth's life known to improve quality of life, including: financial support, housing stability, relationships, life skills, identity development, education and emotional well-being. There are two types of services available through the program:

- **Residential:** youth live outside the family home (e.g., foster home, group home, board and lodging, bedsitting arrangements); and
- **Supportive:** youth live in the family home and support is provided so they can safely remain there.

In NL, service distinctions exist within the YS program based on a youth's previous relationship with CSSD, specifically whether or not they were in care when they turned 16 years of age. Youth may have had previous CSSD involvement through other programs (e.g., child protection); however, this is not currently considered when determining eligibility for the YS program. To receive services, youth must sign a voluntary youth services agreement and must leave the program when they turn 18, unless they meet the following requirements in the *Act*:

1. Youth who **were not in care** on their 16th birthday are required to be in a high school/equivalency program and can receive services up to age 19.
2. Youth who **were in care** on their 16th birthday are required to be in an educational or rehabilitative program and can receive services up to age 21.

As of September 2016, there were 201 youth in the YS program; this included 164 (82 per cent) receiving residential services and 37 (18 per cent) receiving supportive services. Of the 164 youth who were receiving residential services, 74 (45 per cent) were in care when turning 16, while 90 (55 per cent) were not in care when turning 16.

CSSD is recommending the following legislative amendments to enhance services to youth:

- **Amend Section 11 (Duty to Report) to include youth in need of protection, extending the mandatory reporting of maltreatment from age 16 to 18**

Five provinces, including NL, have mandatory reporting of child protection concerns up to the age of 16; five others mandate reporting up to age 18; and three others mandate reporting up to age 19. In most of the provinces where reporting is mandatory up to age 18 or 19, the subsequent receipt of services is voluntary. Raising the age of mandatory reporting may better support vulnerable youth in their transition to independence and has been identified by the Office of the Child and Youth Advocate as an important way that CSSD can ensure the protection of children and youth.

From 2011-12 to 2015-16, there were an average of 7783 referrals to CSSD per year. CSSD estimates that raising the Duty to Report to include youth ages 16 and 17 will increase the total volume of referrals by approximately 10 per cent (778 referrals per year). In recognition of the regional variation and fluctuation in the rate of referrals, CSSD anticipates it will require two full-time equivalents (FTE) Social Worker I (SWI) positions to meet the increase in anticipated referral volume. The staffing costs to implement this change would be \$149,955 per year (\$74,977.50 x 2 FTE SWIs). This does not include program growth, which may occur if additional calls to CSSD results in additional youth availing of the YS program.

- **Removing the ability for youth in care to opt-out of continuous custody**

CSSD is also proposing to amend Section 41(d) to remove the ability for youth to opt out of continuous custody before their 18th birthday. The “opt out” provision was enacted in 2011 when the age to remain in custody was extended from 16 to 18 years of age. This is a complex issue, as people have strong views on decision making for youth. Many stakeholders, including the Office of the Child and Youth Advocate and the Nunatsiavut Government, strongly support not allowing youth to opt out until 18; while others feel strongly that youth should have the choice.

A youth’s ability to make this type of decision is supported in other Acts in this province, including the *Children’s Law Act* (which specifies that a youth can withdraw from parental control at 16) and the *Schools Act 1997* (which states that compulsory school attendance ends at 16). CSSD included the provision for youth to opt out as a way to recognize the developmental challenges and rights to their own decision making in this regard.

Since section 41(d) was enacted in 2011, there have been a small number of youth each year who have opted out of continuous custody (approx. 15 in 2016) while about 100 youth have remained in custody each year. However, CSSD does not know how many of these 15 youth actually left their in care placements, as youth in the YS program are allowed to remain in their placements with the same supports even if they leave custody. While some youth may currently choose to leave custody and completely sever their relationship with CSSD, others may choose to avail of services through the voluntary YS program. Not allowing youth to leave is anticipated to require

one FTE SWI position. The staffing costs to implement this change would be \$74,977.50 per year. CSSD will monitor for potential increases in cost.

- **Apply the same eligibility criteria to all youth in the youth services program and allow youth to receive services until their 21st birthday, regardless of whether they were in care on their 16th birthday**

As noted above, the YS program has different eligibility criteria and maximum ages at which services are available depending on whether a youth was in care when they turned 16. The Office of the Child and Youth Advocate and many youth serving organizations (e.g. Choices for Youth) recommend eligibility for services under the YS program be expanded to allow all youth to remain in the program until at least age 21. Research indicates that youth often require increased supports as they transition out of child welfare systems and investments in services for youth during this transition yield long-term benefits for young people and governments (Ontario's Provincial Advocate for Children and Youth, 2012).

The Mandate Letter to the Minister of CSSD commits to reviewing the YS program, and notes that services should not 'discriminate' based on whether a youth was in care at age 16. To meet government's commitment and provide more equitable service to meet the needs of these youth, CSSD is recommending amendments to Section 67 to apply the same eligibility criteria to all youth in the YS program and allow them to receive services until age 21, regardless of whether they were in care on their 16th birthday.

Expansion of the eligibility criteria is anticipated to increase the number of youth in the YS program who were not in care at 16 by approximately 45 youth. This would result in overall program growth of approximately 38 youth. Based on the current estimates of program costs per clients (\$22,500 per youth per year in 2015-16), this would cost an additional \$1,012,500 per year in direct client costs, as well as a further \$149,955 (2 SWI FTEs) based on current staffing models.

- **Replace the requirement for youth to participate in an educational or rehabilitative program with a requirement to engage in an individualized Youth Services Plan**

Currently youth in the YS program develop and work toward goals identified in a YS Plan. However, eligibility to participate in the program is tied directly to a youth's participation in an educational or rehabilitative program. Due to this requirement, vulnerable youth who due to their individual needs and abilities do not comply with CSSD eligibility requirements, must leave the YS program when they turn 18. This results in some of the most vulnerable youth not qualifying to receive supports as they transition to independence. These youth must then avail of the adult income support program, which provides financial support but does not provide the case

management support often required to assist youth transitioning to independence. Being able to work with youth and support them to attend an educational/rehabilitative program in the future, rather than applying punitive exclusionary criteria, has been identified by CSSD, the Office of the Child and Youth Advocate, and youth serving organizations as a way to enhance support for vulnerable youth.

CSSD is recommending replacing the requirement to participate in an educational or rehabilitative program with the requirement to engage in an individualized YS Plan specific to the youth's needs. The requirement to participate in a YS Plan will be operationalized in policy as part of the ongoing review of the YS program. As the parameters of program eligibility are a significant factor in the total number of clients who participate in the program, further direction will be sought prior to operationalizing the revised eligibility criteria. If at that time Government does not wish to expand the eligibility criteria beyond the current level, no additional resources will be required and CSSD can operationalize a YS Plan as requiring youth to participate in an educational or rehabilitative program.

6. Services to Indigenous Children, Youth and Families:

Issues related to Indigenous child welfare have received significant attention nationally through the recommendations from the Truth and Reconciliation Commission (TRC) on Residential Schools, the Canadian Human Rights Tribunal decision regarding discrimination of First Nations children involved with child welfare, and the public engagement on the upcoming National Inquiry into Missing and Murdered Indigenous Women. The national overrepresentation of Indigenous children in the care of child welfare authorities has been identified as a priority issue for Canada's Premiers who released a report on the issue in July 2015. The Premier of Newfoundland and Labrador has stated that while safety of children is paramount, working with Indigenous Governments/Organizations to find solutions is a priority for the Government of Newfoundland Labrador.

In NL, CSSD is responsible for the provision of child protection services to all children, youth and families, including Indigenous children, youth and families. CSSD has established working relationships with the Nunatsiavut Government, the Mushuau and Sheshatshiu Innu First Nations and with the Miawpukek First Nation. Statistics related to Indigenous children in care indicate that:

- In September 2016, 33% of the children and youth in care in NL were Indigenous (CSSD data);
- Of the 1010 children in care in NL in September 2016, 330 were Indigenous. Of this, 170 were Innu, 132 were Inuit and 7 were Mi'kmaq and 21 identified as other Indigenous groups (CSSD data);

- Although Indigenous children represented only 7% of all children in Canada in 2011, they accounted for almost half (48%) of all children in foster care in the country (2011 Census: National Household Survey,); and
- In 2011, 70% of Indigenous children in care in NL were residing in foster homes with at least one Indigenous parent (2011 Census: National Household Survey). This was the highest percentage in Canada.

Nunatsiavut Government

Child protection services are delivered to the beneficiaries of the Nunatsiavut Government (NG) through the CSSD operational budget, without any federal funding. CSSD staff deliver child welfare services in the five Inuit communities of Nain, Rigolet, Makkovik, Postville and Hopedale. One zone manager has responsibility for services to the NG. In accordance with the Labrador Inuit Land Claims Agreement (LILCA), the NG has lawmaking authority in relation to child protection matters; however, they have not yet drawn down this authority.

In November 2012, CSSD entered into a Memorandum of Understanding (MOU) with the NG to improve planning around the safety and well-being of children and youth and to enhance service coordination and delivery. The MOU provides a framework for improvements in child welfare service accessibility and effectiveness while recognizing the unique culture of these Indigenous communities. The principle components of the MOU include the creation of Planning Circles that have representation from both CSSD and the Indigenous Governments/Organizations. The Planning Circles are responsible to identify specific and practical ways to improve service delivery for children, youth and families involved with CSSD in their communities. While the process has not been without its challenges, there has been progress made in areas, including permanency planning and the identification of systemic needs.

Sheshatshui and Mushuau Innu First Nations

Federal funding for CSSD programs in the Innu communities of Natuashish and Sheshatshiu is provided directly to the Government of Newfoundland and Labrador for the delivery of services. This is in addition to funding the federal government provides directly to the Mushuau Innu Health Commission (Natuashish) and the Sheshatshiu Innu Social Health Division for health and social programs for the Innu of Labrador.

As with the NG, CSSD signed an MOU with the Mushuau Innu First Nation and the Sheshatshiu Innu First Nation in November 2012 to improve planning around the safety and well-being of children and youth and to enhance service coordination and delivery. These MOUs have since been revised and a joint MOU has been signed with the Mushuau Innu First Nation, the Sheshatshiu Innu First Nation and the Innu Round Table. The revised MOU provides for a collaborative approach in several areas, including sharing of information, case consultations, and planning for children in care who have been placed outside of their community. Representatives

from CSSD currently sit at the Innu Round Table, and are participating in land claims and self-government negotiations with the Labrador Innu.

Miawpukek First Nation

In 1993, Miawpukek First Nation (MFN), the federal government and the Government of Newfoundland and Labrador entered into an agreement to create Miawpukek Child and Family Services to deliver child, youth and family services under the direction of Conne River Health and Social Services. The MFN receives block funding from the federal government for its programs, including child, youth and family services, and then purchases child protection services from the Province. Child welfare services are delivered by CSSD staff and in accordance with CSSD legislation, policy and standards.

Current Initiatives with Indigenous Governments/Organizations

CSSD is committed to working with our Indigenous partners to increase availability of foster homes and other placement resources for children and youth within Indigenous communities. Initiatives to support this include collaboration with the NG to adapt PRIDE foster parent training, the Foster a Future campaign to recruit more Indigenous foster homes, and through increases in foster home payments in Labrador (15% increase in most of Labrador and 30% increase in remote Labrador communities). Additionally, a service agreement has been signed between Key Assets and the NG to support the development of placement options for children and youth in Inuit communities. Recently the Innu received funding through Indigenous and Northern Affairs Canada (INAC) for a number of initiatives aimed at preventing children from coming in to care, supporting parents, and enhancing placements within the community when children do have to come into care. In recent correspondence (2016) from the Chiefs of the Innu communities of Sheshatshiu, Natuashish and the Innu Nation, to the federal minister of INAC (copied to Premier of NL and Minister of CSSD), it is indicated that these initiatives complement the implementation of the Working Relationship Agreement between the Innu and CSSD.

The 2011 *Act* currently references “culture, identity and community connections”; however, the uniqueness of Indigenous culture is not explicitly referenced. The only specific Indigenous consideration in the legislation is in relation to Labrador Inuit rights under the *Labrador Inuit Land Claims Agreement*. In nine Canadian jurisdictions, child welfare legislation contains specific references to Indigenous children and communities to varying degrees. References may include a definition of an Indigenous child or community, an acknowledgement of the uniqueness of Indigenous culture, notification of Indigenous Governments/Organizations when child welfare authorities become involved with families, or inclusion of Indigenous Governments/Organizations as parties to court proceedings under the *Act*.

CSSD heard from Indigenous Governments and Organizations that there are a number of issues they would like to see addressed in the *Act*. The NG, the Mushuau and Sheshatshiu Innu First Nations (IFN) and the Miawpukek First Nation (MFN) recommend legislative changes in the

following areas: improving information sharing; notifying Indigenous representatives of child protection involvement and court matters; and, acknowledging Indigenous culture when considering the child's best interests and out-of-home placement needs. The MFN also recommended legislative changes to allow the Minister to delegate service delivery to an agency as they envisioned themselves delivering child protection services through a delegated agency in the future. The Nunatukavut Community Council (NCC) was invited to consult but did not provide a written submission. In a follow up discussion with CSSD, officials from the NCC concurred with the recommended legislative changes in line with other Indigenous Governments/Organizations. The Qalipu Mi'kmaq First Nation (QFN) was invited to consult but did not respond to correspondence sent in October 2016 and March 2017.

Research encourages advancing toward more collaborative approaches with Indigenous Governments/Organizations, including supporting them in efforts to take control of child welfare services if they desire to do so. Services should be inclusive of Indigenous people and their culture and provide supported autonomy.

There is consensus that connection to culture and to community is exceptionally important for Indigenous children and youth. Indigenous children removed from their communities and raised in non-Indigenous homes experience a profound sense of loss, which has long lasting impacts. Research conducted on Indigenous perspectives on wellbeing indicates that Indigenous cultures see the physical, emotional, mental, spiritual and cultural health of both the individual and the community as inextricably linked.

CSSD is recommending legislative amendments to ensure the *Act* is consistent with other jurisdictions and best practices, including: defining an Indigenous child/youth; acknowledging the uniqueness of Indigenous cultures in the General Principles; requiring cultural continuity planning for children/youth in care placed with a non-Indigenous families; requiring information sharing about child protection and court matters with designated Indigenous representatives; focusing on family preservation where in the best interest of the child, adding placement considerations for Indigenous children in care to focus on placement within their communities; and including a provision to allow the Minister to delegate service delivery to Indigenous Governments/Organizations.

ANNEX B
Minor Legislative Adjustments
(Process and Procedural Gaps)

Section	Title	Identified Issue	Recommendation
Part I - Interpretation			
s.2	Interpretation	s.2(1)(m) Parent of a child is defined; however, most statutory references in the <i>Act</i> are to “parent” which is not defined	Language change. Remove “of a child” from definition of a parent in s.2(1)(m)
s.2	Interpretation	The following terms are referenced in the <i>Act</i> but are not defined: <ul style="list-style-type: none"> • necessary health care; • necessary medical treatment; and, • essential medical treatment 	Add definitions to s.2: <ul style="list-style-type: none"> • necessary health care; • necessary medical treatment; and • essential medical treatment
s.2	Interpretation	The following terms are not defined in the <i>Act</i> : kin or community	Define kin and/or community to support placement provisions for Indigenous children/youth
s.6	Provincial Director of Protective Intervention and In Care	Current wording allow the Minister to appoint a “person” to the role of Provincial Director of Protective Intervention & In Care. In the new department organizational structure, responsibilities for directing these programs falls under more than one division/director	Update s.6 to reflect that the Minister shall appoint one or more “persons” to direct functions outlined under the duties of the Provincial Director of Protective Intervention & In Care
Part III - Protective Intervention			
s.10	Definition of child in need of protective intervention	s.10 (m) references living with a parent whose actions show a propensity to violence. This excludes: <ul style="list-style-type: none"> • access parents who only have visitation rights to children (i.e., the child is not living with them) 	Expand the definition under s. 10(m) to include: <ul style="list-style-type: none"> • access parents who only have visitation rights to children (i.e., the child is not living with them)
s.14	Interview of a Child	s.14 (1) identifies that interviews can be conducted with “a child who is subject of an investigation.” This is too narrow and should include authority for interviews in on-going protective intervention cases	Expand s.14 to include “on-going protective intervention”

Section	Title	Identified Issue	Recommendation
		s.14(2) identified that the parent shall be notified of the interview but doesn't clarify if that the notification can occur before or after the interview with the child	Clarify that notification of an interview under s.14(2) can occur before or after an interview
s.17	Order to produce record	s.17(1) (a) limits making application to when the information is required to determine whether a child is in need of protective intervention to investigations	Under s.17(1)(a), expand application beyond when determining whether a child is in need of protective intervention (investigation) to include "ongoing protective intervention"
s.18	Order to prohibit contact	s.18 (2) states that notice of hearing is served but doesn't reference serving the application. The parties should also be served a copy of the application Clarification is required regarding whether interim orders, bridging provisions and subsequent orders apply to orders to prohibit contact	Include that a copy of the application shall be served under s.18(2) Interim orders, bridging provisions and subsequent orders apply to orders to prohibit contact
s.20	Removal of child	In s.20 there is no provision for what to do if a warrant to remove is denied but CSSD believes the child cannot safely remain at home s.20 (6) (b) Children cannot be removed in this circumstance as per policy. Provision to be removed	Clarify that s.25 application for protective intervention can be made where the social worker believes it is appropriate, but warrant has been denied Remove s.20(6)(b) from the <i>CYCP Act</i>
s.25	Where child is not removed	Under s.25 (2) hearings are held within 30 days of filing an application for a supervision order. In cases of supervision orders hearings should be held sooner. Presentation hearings for supervision orders were removed in the <i>Act</i> and resulted in unintended later hearing date	s.25 should be updated to reflect that in supervision order hearings, court hearing date should be earlier to keep in line with hearings when a child is removed (within 10 days)
Part IV – Court Proceedings			
s.28	When sixteenth	Clarify legislative provision to	Clarify legislative provision to

Section	Title	Identified Issue	Recommendation
	birthday intervenes	direct that in these cases the judge may only make an order of continuous custody or dismiss the application	direct that in these cases the judge may only make an order of continuous custody or dismiss the application
s.31	Presentation hearing	<p>s.31 (e) states that a child is to be placed in or remain in the custody of a manager. At this point in a proceeding a child is not in custody – they are in interim care. “Remain in custody” should be removed</p> <p>The effect of a custody order granted at the presentation hearing has not been outlined in the same manner as the effect of Temporary and Continuous Custody orders have</p>	<p>Remove “Remain in custody” from s.31(e)</p> <p>Define the effect of an interim custody order granted at the presentation hearing, include what conditions can and cannot be attached, similar to temporary custody orders</p>
s.32	Protective Intervention Hearing	<p>The <i>Act</i> does not give direction as to what conditions can or cannot be added to a temporary custody order with supervision s.32(2)(b) or a supervision order 32(2)(a) whereas conditions are set out for the courts in temporary custody orders under s.32(5)</p> <p>s.32 (3) Non-compliance of a supervision order requires clarification. Specifically, what type of application, what can be requested, what type of hearing will be conducted, or what the judge can order as a result of an application being made</p> <p>The <i>Act</i> should also require a copy of the application and Plan for the Child be served to the parties</p> <p>s.32(6)(a) Provision must be removed as per decision from the court of appeal as prohibition on</p>	<p>Update s.32(2)(a) & (b) to include what types of conditions can be attached</p> <p>This section needs to be expanded in the <i>Act</i> to clarify these issues</p> <p>Update s.32 to reflect that the application and Plan for the Child be provided to the parties</p> <p>Remove s.32(6)(a) and replace with what kinds of conditions can be added to continuous</p>

Section	Title	Identified Issue	Recommendation
		<p>access conditions was struck down as offending the Charter of Rights and Freedoms</p> <p>However, currently, any access orders arising on continuous custody cannot be terminated at the time of adoption, unlike other access orders. This creates disparity</p>	<p>custody orders or same language as other places re: reasonable conditions. Address that where access can be ordered, and that such an order would be enforceable under the <i>Children's Law Act</i> so it is captured under s.40 of the <i>Adoptions Act, 2013</i></p>
s.36	Subsequent order	<p>In s.36, the term social worker's plan for the child is referenced, not the official the Plan for the Child. There should be an explicit reference to the Plan set out in s.29</p>	<p>Update s.36 required to reference the Plan for the Child referred to in s.29</p>
s.39	Effect of continuous custody order	<p>Currently this provision requires any person who has been named in an access order to a child be notified when the manager intends to consent to adoption. In some cases this is too broad and in others, excludes individuals with regular access that was not ordered</p>	<p>s.39(3) to clarify that it pertains to a recent or current order only, and only where those persons are still exercising access</p>
s.40	Financial Responsibility	<p>s. 40 only relates to children in temporary and continuous custody and does not include children who have been removed but there is no custody order in place and does not include youth</p> <p>Current <i>Act</i> does not allow CSSD to collect overpayments</p>	<p>Update s.40 to include youth in care and Interim Custody</p> <p>Add a provision to allow the department to collect overpayments</p>
s.42	Rescinding continuous custody order	<p>s.42 does not provide direction on serving of date and time of hearing and a copy of the application to parties to the application</p> <p>s.42 (1) (a) states the child or youth "has not been placed for adoption." Clarification is required as to the intent of this provision</p>	<p>Update s.42 to include providing direction on serving date and time of hearing and application</p> <p>s.42 (1) (a) states "has not been placed for adoption". Should be linked to when a manager consents to adoption. s. 39(3)</p>
Part V - General Court Matters			
s.48	Proceedings and Evidence	<p>Addition to allow the court to permit hearsay evidence as most</p>	<p>CSSD expand s.48 to ensure there is legislative support for</p>

Section	Title	Identified Issue	Recommendation
		CRMS notes are such. Clarification could be provided to identify electronic case notes as credible business records that are permissible in court	the use of electronic case notes or other documents from the CSSD file that can be entered as evidence to the court
s.56	Disclosure to Parties in Court Proceedings	Clarification and enforcement is required as it relates to full disclosure being reciprocal. Currently parents refuse to disclose information during court proceedings s.56(2) requires clarification that “a person who has made a complaint,” refers to a person who provided information under s.11 of the <i>Act</i> (Duty to Report)	To be clarified in s.56(1) to ensure that disclosure is reciprocal To be clarified in s.56(2)
s.59	Consolidation of Matters	Clarification required related to true legal consolidation of matters versus matters being heard together, which is most often the case with CSSD matters. Clarification is also required related to disclosure in these cases	Short title of s.59 should complement section and needs to be changed. Provision to clarify disclosure for consolidated matters versus matters heard together
Part VI - Placement of Children and Youth			
s.66	Counseling for the child or youth after removal	This provision is limited to children/youth that have been removed from a placement, not a removal from the parent. This should be reviewed and updated to clarify	Clarify under s.66 that children/youth who have been removed from their parent or from a placement are entitled to counselling
Part VIII - Confidentiality and Disclosure Provisions			
s.72	Information not to be disclosed	Information prohibited from disclosure in accordance with the <i>Youth Criminal Justice Act</i> and the <i>Young Persons Offenses Act</i> should be included (similar to information under the <i>Adoption Act</i>)	Include a specific prohibition on information being disclosed contrary to those Acts

ANNEX C
Summary of Consultations

Consultations	
Stakeholder	Date
1. Office of the Child and Youth Advocate	September 6, 2016
2. Miawpukek First Nation	September 13
3. External Service Providers (Waypoints, Key Assets, Blue sky, Shalom, and Daybreak)	September 22
4. Other Government Departments (AESL, EECD, WPO, LAAO)	September 26
5. Youth Organizations (e.g. Community Youth Networks, Choices for Youth, Daybreak, Brighter Futures, Labrador Friendship Centre, Exploits Valley Community Coalition, Vista Family Resource Centre, Waypoints)	September 27
6. Family Litigation Unit (JPS)	September 28
7. Sheshatshiu and Mushuau Innu First Nations, Innu Round Table Secretariat	October 6
8. NL Foster Families Association	October 12
9. Janeway Child Protection Team	October 18
10. Organizations Representing Women (e.g. transition houses, violence prevention committees, multicultural women's organization, Mokami Status of Women Council, Hope Haven, Stella's Circle, Newfoundland Aboriginal Women's Network, Planned Parenthood)	October 20
11. Nunatsiavut Government	November 3
12. CSSD (Zone F)	November 8
13. CSSD (Zone G)	November 9
14. CSSD (Zone K)	November 10
15. CSSD (Zone A)	November 14
16. CSSD (Youth Services Site, Metro)	November 15
17. CSSD (Zone B)	November 16
18. CSSD (Zone E)	November 16
19. CSSD (Zone C)	November 17
20. CSSD (Zone J)	November 21

21. CSSD (Zone M)	November 22
22. CSSD Policies and Programs Provincial Office	November 23
23. CSSD (Zone L – session 1/2)	November 24
24. CSSD (Youth Services - Outside Metro)	November 24
25. CSSD (Zone D)	November 28
26. CSSD (Zone M – Youth Services)	November 29
27. CSSD (Zone L – session 2/2)	November 30
28. CSSD (Zone H)	November 30
29. Youth Focus Group (Former Youth Services clients - Metro)	December 9
30. Poverty Reduction Strategy	December 12
31. Supreme Court, Family Division	December 14
32. Royal Newfoundland Constabulary	December 19
33. Eastern Health (Women's Health/ Mental Health/Addictions)	December 19
34. Youth Focus Group (Current Youth Services clients – Metro)	December 15
35. Miawpukek First Nation	February 8, 2017
36. Nunatsiavut Government	March 9
37. Sheshatshiu and Mushuau Innu First Nations, Innu Round Table Secretariat	March 9
38. Miawpukek First Nation	March 27
39. NunatuKavut Community Council	March 29

Written Submissions	
Stakeholder	Date Received
Individual Submission	June 30
Office of the Child and Youth Advocate	September 6
Sheshatshiu and Mushuau Innu First Nations, Innu Round Table Secretariat	September 18
Miawpukek First Nation	September 30
Individual Submission	October 14

NL Foster Families Association	December 22
Provincial Advisory Council for the Inclusion of Persons with Disabilities	December 22
Key Assets	December 30
NL Association of Social Workers	December 30
Choices for Youth	December 30
RCMP	January 4

Surveys	
Survey Type	Number of Responses
Youth in Youth Services	55
Youth Formerly in Youth Services	5
Children and Youth In Care	62
Parents in the Protective Intervention Program	28
CSSD Staff in the Children and Youth Branch	23

Stakeholders Who Did Not Respond
Western Health
Central Health
Labrador Grenfell Health
English School District
French School District
Legal Aid
School of Social Work
NL Housing
Qalipu Mi'kmaq First Nation

ANNEX D
Jurisdictional Scan by Policy Issue

INFORMATION SHARING	
Province/Territory	Topic Analysis
Newfoundland and Labrador	The confidentiality and disclosure of information that is collected under the <i>CYCP Act</i> for the purposes of the care and protection of children and youth is governed by provisions of the <i>CYCP Act</i> and these provisions prevail over those included in the <i>Access to Information and Protection of Privacy Act, 2015</i> .
Nova Scotia	Disclosure mandated to parties to a child protection matter, but on application, in accordance with Family Court Rules and Civil Procedure Rules; publication ban exists re. Identifying child, parent/guardian, foster parent or relative of a child. By regulation, information disclosure re. Information on the child abuse register is addressed.
Prince Edward Island	Expansive list of when authorities can disclose, encompasses court matters, persons involved in the file, disclosure for a criminal investigation, necessary for health, safety and well-being of child as well as to assess plans for a child or services for a child. Also provides for publishing aggregate non-identifying data and statistical analysis, reports etc.
New Brunswick	Confidentiality of all information provided for under the legislation, with directed ability of Minister to share with written consent, and limited exceptions related to care for the child, services to the family and other government departments, agencies in relation to same, health services, etc.
Quebec	Chapter IV.1 Confidential Information specifies confidentiality of information, publication ban issues, disclosure for court purposes, when it is needed for work with the child/family, other institutions and government agencies/bodies.
Ontario	Children's aid societies (CASs) in Ontario are not subject to the <i>Freedom of Information and Protection of Privacy Act</i> (FIPPA). CASs are expected to have policies and procedures regarding access, disclosure and privacy of records that are in keeping with the Ministry's Case

INFORMATION SHARING	
Province/Territory	Topic Analysis
	<p>Information Disclosure Policy (CIDP) Manual (1985), best practices and current and relevant legislation</p> <p>Section 67(2) of FIPPA provides that ss.45 (8), (9) and (10), 54(4) and (5), 74(5), 75(6), 76(11), 116(6), and 165 of the Child and Family Services Act (CFSA) prevail over FIPPA. This means that a FIPPA institution, like the ministry, is required to abide by the aforementioned sections of the CFSA even where they may be conflict with FIPPA. For example, subsection 45 (8) of the CFSA prohibits any person from publishing or making public any information that has the effect of identifying a child who is a witness or a participant in a hearing or the subject of a child protection proceeding or the child's parent or foster parent or a member of the child's family; and s.165 provides for the confidentiality of adoption information.</p>
Manitoba	<p>Section of the Act enumerate when can disclose including court proceedings, other agencies working with etc. and provides distinctions between information held re. Voluntary arrangements, other processes, preparation of summaries of file information etc. and where appropriate.</p>
Saskatchewan	<p>Confidentiality provisions set out includes disclosure to persons involved in a file, use of written consent, and a discretionary provision re: benefit to disclosing which outweighs privacy interest in the judgment of the Minister.</p>
Alberta	<p>Applies the Freedom of Information and Protection of Privacy Act, with specific additions/limitations under Part 2, Division 2 of this Act, and provisions and processes set out in Part 4.</p>
British Columbia	<p>Selectively applies provisions from the Freedom of Information and Privacy Act of BC, provides an expansive list of circumstances when disclosure can be made without consent of person including court matters, reviews of services and reports of same, to facilitate an adoption, seeking legal counsel.</p>

INFORMATION SHARING	
Province/Territory	Topic Analysis
Nunavut	Outlines when information can be disclosed including: giving evidence, per court order, necessary to perform functions and duties under the Act; written consent of parties; needed for education, counselling or care of child; to conduct an investigation; peace officer in certain cases; public interest exception.
Northwest Territories	Outlines when can disclose including: giving evidence, per court order, necessary to perform functions and duties under the Act; written consent of parties; needed for education, counselling or care of child; to conduct an investigation; peace officer in certain cases; public interest exception.
Yukon	Confidentiality of information confirmed in the Act, with limited exceptions including court processes, legal advice, investigations, assessments needed, ability to share to assist in planning for a child, and other enumerated exceptions.

PREVENTION	
Province/Territory	Topic Analysis
Newfoundland and Labrador	Services provided under the Act are connected to a child/youth being in need of protective intervention.
Nova Scotia	Mandate of agencies under this Act includes prevention activities.
Prince Edward Island	Services linked to child being in need of protective intervention.
New Brunswick	This legislation is omnibus social services legislation of which child protection is one part. Prevention activities noted in community services section, Part I distinct from child protection services.
Quebec	Voluntary Agreements available to families, but Act is limited to core protection services.
Ontario	Support and prevention activities provided in the community.

Manitoba	Mandate for child protection agencies defined under the Act, includes prevention.
Saskatchewan	Act currently references service to families being offered through agreements with community agencies; understanding that intention to broaden services under new legislation.
Alberta	Services linked to child being in need of protective intervention through family enhancement agreements.
British Columbia	Supportive services available to families by agreement, legislative authority for the director to provide preventative and support services.
Nunavut	Voluntary support services available as listed in the Act.
Northwest Territories	Voluntary support services provided under the Act.
Yukon	Services are linked to a child being in need of protective intervention through an agreement.

LICENSING AND REGULATIONS FOR FAMILY AND RESIDENTIAL PLACEMENTS

Province/Territory	Topic Analysis
Newfoundland and Labrador	CSSD may make agreements with a person with whom a child has been placed for care.
Nova Scotia	Minister can use 'child caring facilities' for children in care and is authorized to approve and license facilities for operation, as well as to maintain and conduct same. In the latter case, an advisory board is to be appointed by Governor in Council appointment to oversee operations etc.
Prince Edward Island	Specific legislative authority to delegate the Directors' responsibilities to someone providing care per Regulations; Impacts placements in and out of the province.

LICENSING AND REGULATIONS FOR FAMILY AND RESIDENTIAL PLACEMENTS	
Province/Territory	Topic Analysis
New Brunswick	Community Services Part I sets out approval for community social services, which include day programs but not residential placements; Part II sets out approvals for various community placement resources. Child Protection Part references foster parents as natural persons only, and rights of care/custody can be transferred to them during currency of an order. Minster has authority to enter agreements for care/custody of a child with person or agency that is approved by the LG in C. These appear to be entities subject to approval under Parts I and/or II of the Act;
Quebec	Foster families and residential options are outlined and regulated in health and social service legislation, separate and apart from the child protection legislation.
Ontario	Licensing regime established in the Act to permit residential placements and governed by regulations. Placement options further subject to a hierarchy of selections under the Act and review is available for some decisions re: placement resources to administrative board/committee.
Manitoba	Traditional foster homes are subject to licensing regime. Procedures and standards for various licenses and monitoring set out in regulations, including all forms of child care facilities – includes foster homes, group homes, treatment centres among others.
Saskatchewan	All foster care services in families or residential services must be approved. Express legislative authority for minister to delegate aspects of its powers/duties under the Act to agencies.
Alberta	Part 3 sets out specific legislative authority to have residential placements, subject to licensing and regulatory processes established under the Act and regulations.
British Columbia	Defines residential services separately from foster parents, and Act provides authority to establish licensing and regulatory regime through Regulations. Specific authorization for agreements with service providers and provision for review of those services, including public accountability.

LICENSING AND REGULATIONS FOR FAMILY AND RESIDENTIAL PLACEMENTS	
Province/Territory	Topic Analysis
Nunavut	Child care facilities and foster homes specifically defined and regulated under a section of the act; Specifies operational requirements, approval, monitoring, investigations by child protection officials and third parties appointed by the minister into care, management etc. Specific requirements to be outlined in regulations.
Northwest Territories	Child care facilities and foster homes specifically defined and regulated under a section of the act; Specifies operational requirements, approval, monitoring, investigations by child protection officials and third parties appointed by the Minister into care, management etc.
Yukon	Children can only be placed in facilities approved under the Act, approval and monitoring scheme provided in the Act, including facilities run by Minister and the ability to approve others to operate facilities in accordance with the Act and regulations applicable to such facilities.

TIME IN CUSTODY PRIOR TO PERMANENCE	
Province/Territory	Topic Analysis
Newfoundland and Labrador	Maximum of 2 temporary orders in a child's lifetime with an option of a 3 rd order in exceptional circumstances as determined by the court. 1 st order for all ages is 6 months. 2 nd order for children under 6 is 3 months, 2 nd order for children over 6 is 6 months.
Nova Scotia	Cumulative time is tracked by the direction of 'disposition orders' which include supervision order as well as custody orders. A single disposition order cannot exceed 3 months, and for children less than 14 years total duration of orders cannot exceed 12 months, 14 or older cannot exceed 18 months. Time spent by the parties engaging in case conferencing under the Act is deducted from the time available under disposition orders to ensure that time limits do not cease while non-court remedies are pursued. If child has been the subject of multiple proceedings over their lifetime, and the last involvement was at least 5 years ago, maximum direction of disposition orders for the child will be 36 months across all events.

TIME IN CUSTODY PRIOR TO PERMANENCE	
Province/Territory	Topic Analysis
Prince Edward Island	Cumulative time in temporary custody for children 5 years of age and younger is 12 months. Time for children 6 years of age and older is 18 months. An additional order of 6 months may be ordered in exceptional circumstances.
New Brunswick	Maximum of 24 months consecutive time in temporary custody.
Quebec	Cumulative time for both voluntary agreements and orders, varied by age: under 2 is 12 months, 2-5 is 18 months and 5+ is 24 months. After maximum voluntary agreements must proceed to court for an order unless youth is 14 and withdraws from care; if the maximum amount of time under an order is reached, which may include prior voluntary agreements as well, then the plan must move to permanence unless the court is convinced that the child could return home in the short term.
Ontario	Cumulative time in custody runs from the date of first order, certain types of agreements are included in calculation of time, as well as interim orders which are mandated to cover period of court adjournments. Children under 6 can remain in care for a total of 12 months, over 6 are 24 months. If there is a break from a previous time in care of more than 5 years continuously, past time is not considered in this calculation.
Manitoba	Cumulative time in temporary custody (i.e. effective time of orders) only applies to children 12 and under; Children under 5 is 15 months, and 5-12 is 24 months.
Saskatchewan	Total period of orders available is 24 months, with possible extension available if it is in the best interest of the child. Maximum time under supervision orders is 18 months, also with extension available.
Alberta	Cumulative time in care includes time under Custody Agreements, temporary custody orders, temporary guardianship orders, extension to orders and interim orders, unless there is a 5 year gap in a child being in care, or after a permanent guardianship order or adoption order is made. Children under 6, time is 9 months, 6-12 is 12 months, with availability of 1 extra order of up to 6 months in specified circumstances. Children over 16, cannot apply for permanent orders, if possible youth could live independently, then can seek only temporary order.

TIME IN CUSTODY PRIOR TO PERMANENCE	
Province/Territory	Topic Analysis
British Columbia	Cumulative time runs from the date of the first order. Under age 5 is 12 months in care, 5-12 is 18 months in care and 12 years and older is 24 months in care. The court may add additional time if determined to be in the child's best interests.
Nunavut	Cumulative time of 24 continuous months in care before must proceed to permanence.
Northwest Territories	Cumulative time of 24 continuous months in care before must proceed to permanence.
Yukon	Cumulative time in care depending on age of child: under 5 -12 months; 5- up to 12 – 18 months; 12+ is 24 months, with possibility of court ordering one additional period of custody in exceptional circumstances, with sliding length of order based on age of the child. Only times that occur within a 5 year continuous period are added toward this total; however this would include time spent under voluntary custody agreements as well as orders.

SERVICES FOR YOUTH	
Province/Territory	Topic Analysis
Newfoundland and Labrador	Act includes children up to the age of 16 and defines youth as 16-18. Youth over 16 may be in continuous custody up to 18. Youth may voluntarily receive services via a youth services agreement to a maximum age of 21 if eligibility criteria are met.
Nova Scotia	Act includes children to age 19; those 16+ are parties to child protection proceedings but can also address issues directly with authorities under various agreements for services, including residential care. Youth with a disability may remain in the custody of the province until 21.
Prince Edward Island	Act includes children up to 18; youth is defined as 12-18. Act does not preclude mandatory protection from 16-18, but voluntary agreements are also available. Any youth in permanent custody (via order or agreement) can extend to 21 if youth is in an eligible program.

SERVICES FOR YOUTH	
Province/Territory	Topic Analysis
New Brunswick	Act includes children to age 19 with no separate definition of youth. Protection/removal extends only to age 16, unless evidence of disability. Over 16 can refuse service if have capacity. Voluntary agreements for service available from 16-19, can be extended to age 24 if eligibility criteria met.
Quebec	Act defines youth as all those under 18. Protection can continue, subject to ability of any youth to apply for tutorship, which is similar to being emancipated. Criteria for tutorship are under the Civil Code of Quebec, and can include youth remaining under supervision of the Director, others and remaining with a foster family.
Ontario	Act defines child as up to 18, with rights provided to children defined as ‘young persons’ from 12-18. Temporary Custody Agreements available with young person over 12 only if they are party to the Agreement, and TCA not available re: children 16+ except specified special needs agreements defined in the Act. Very different regime as children eligible for paid counsel as of right through a special office.
Manitoba	Act extends to all children under 18, no definition of youth. Services beyond term of guardianship available under a voluntary agreement to age 21.
Saskatchewan	Act currently extends to 16, but incoming legislation extends to 18. Currently, voluntary services from 16-18 and agreements can be extended to 21 for youth formerly in care. This will be extended to 24 in the new Act.
Alberta	Act extends to all children under 18, with subset of youths defined as 16-18. Youths over 16 who are in need of protection, but can live independently from their guardian with services, are eligible for voluntary services under agreements.
British Columbia	Act defines child as up to age 19, includes youth in definition as being 16-19. Mandatory protection up to age 19. Voluntary Agreements available for youth 16-19 outside of the child protection regime. Extension of all agreements made, voluntary or post-care, to up to age 24 if attending an eligible program.

SERVICES FOR YOUTH	
Province/Territory	Topic Analysis
Nunavut	Child is up to age 16; Can enter into voluntary agreement with youth unless evidence that they unable/unwilling to enter an agreement due to various listed incapacities, including solvent use and other substance abuse – then youth can be removed.
Northwest Territories	Child is defined as being under the age of 18. Voluntary agreements may be signed with youth and extended until age 23 if the youth meets eligibility requirements.
Yukon	Act defines child as up to 19. Voluntary agreements for youth leaving care can be extended up to 24 if the youth meets eligibility requirements.

SERVICES TO INDIGENOUS CHILDREN, YOUTH AND FAMILIES	
Province/Territory	Topic Analysis
Newfoundland and Labrador	General statement related to “culture, identity and community connections.”
Nova Scotia	Identification of notice requirements for specified groups and entitlement to be heard in matters, including notification of adoption placement and intentions to finalize, and copy of final order being sent.
Prince Edward Island	Best interests test contains specific provision of cultural identify of Indigenous children, notification of a band re: investigation of a matter, outcome of investigation, agreement entered if any. Provide notice to band of intention of apprehend baby from birth, once apprehended notify band re. any child ASAP, court must consider submissions from the band in any hearing, notice of hearings must be sent, mandate to collaborate with the band re: plans for child upon disposition hearing (type of order needed).
New Brunswick	Directed statement in best interests test only.
Quebec	Broad statement re: the necessity of the characteristics of their cultural communities in all decisions made under the Act.

SERVICES TO INDIGENOUS CHILDREN, YOUTH AND FAMILIES	
Province/Territory	Topic Analysis
Ontario	Enshrines principle that child protection services shall be provided by Indigenous persons for their own families wherever possible. Societies mandated to explore ADR options with Indigenous groups as part of processes, notice of proposal affecting a child shall be given to the Indigenous group, Indigenous representatives are parties to any proceedings, variations or terminations and adoptions, part of reviews conducted under the Act, Preferential placement with Indigenous communities is provided and Act mandates workers try to build relationships with community where placement is not possible. Notice must be provided if move a child from long term foster placement to Indigenous group, written intention to adopt a child and submission of plan to Indigenous group. Requirements to send adoption orders to band as well.
Manitoba	Strong statement of principles that relate to Indigenous culture/heritage. Mandatory notice to appropriate band, court must confirm notice has been properly service before proceeding, and copies of orders made are sent to the band.
Saskatchewan	Upon request, band representative can be identified as having an interest in the child, and if child is a member of a band, then notice to the band is mandatory as part of removal/court process. Act allows entering into agreements for providing services or administration of any part of the act, including the ability to act as an agency under the Act.
Alberta	Mandate to consider specific factors outlined in relation to Indigenous culture, mandated to prepare a cultural connection plan for any suspected Indigenous child as part of court proceedings. Direction to Court to advise any guardian of a child of the cultural connection plan, an expectation of guardian in relation to same. Court is mandated to consider best interest of child in context of Indigenous considerations set out in the Act re. Placement, custody orders and adoptions, including step parent adoptions. Adoption agencies have similar mandated expectations.
British Columbia	Extensive references, including definitions, principles directed at Indigenous children for placement, best interests etc. Requirement for cultural issues to be included in plans presented to court etc. Notification provisions throughout

SERVICES TO INDIGENOUS CHILDREN, YOUTH AND FAMILIES	
Province/Territory	Topic Analysis
	the Act including: notification of band/authority of court proceedings including dates/times etc., receipt of court documents and plans, eligibility to participate in court proceedings, court can make custody orders placing child with representative of the Indigenous community. Authority to enter agreements with Indigenous groups re: provision of services.
Nunavut	Principles of the Act are based on Inuit values that services should be provided in communities by Indigenous providers where possible, plan of care committees provide representation and planning from Inuit communities, notices of court actions to be served on Inuit communities.
Northwest Territories	Mandates service of applications on the applicable Indigenous group, and mandatory consideration of the court of submissions from the organization on a case plan. Involvement in plan of care committees, community agreements re. Level of care provided. Any permanent orders, certified copy to be sent to organization.
Yukon	Service principles include involvement of Indigenous groups in planning and delivery of programs, use of co-operative ADR type processes with Indigenous representatives. Expectations on when/how contact Indigenous groups about investigations, findings, mandatory notice of court matters, right of groups to be parties to actions and file plans etc. Placement considerations as well as standing in adoptions proceedings.

ANNEX E
Discussion Guide



Review of
Children and Youth Care and Protection Act
Discussion Guide
2016



Message from the Minister

As the Minister of Children, Seniors and Social Development (formerly known as Child, Youth and Family Services), I am pleased to invite you to participate in the review of the *Children and Youth Care and Protection Act*.

The *Children and Youth Care and Protection Act* is a key piece of child-focused legislation, which guides the delivery of child protection, in care, and youth services programs throughout Newfoundland and Labrador. The legislation came into effect in June 2011 with enhanced policies and training for departmental staff.

It is critical that our government's decisions are informed by engagement with stakeholders and individuals to ensure everyone has an opportunity for their voices to be heard.

Part of my mandate as minister, is to also review services to youth to ensure the Youth Services Program is responsive to the unique needs of youth. The protection and care of children and youth is a core value of our government and we are committed to working closely with all Newfoundlanders and Labradorians to ensure our children and youth benefit from the sense of well-being they deserve.

Thank you in advance for your participation in the statutory review of the *Children and Youth Care and Protection Act*.

Sincerely,

HONOURABLE SHERRY GAMBIN-
WALSH

Minister of Children, Seniors and Social Development





Purpose of Discussion Guide

This Discussion Guide is an opportunity for those interested to provide input on the review of the *Children and Youth Care and Protection Act (CYCP Act)*. Engagement with stakeholders and individuals will assist the Department of Children, Seniors and Social Development to review the *CYCP Act* and further strengthen services to children, youth and their families.

What is the *CYCP Act*?

- The *CYCP Act* was proclaimed on June 30, 2011, and is the legislation that governs some of the programs and services delivered by the Department of Children, Seniors and Social Development including the Protective Intervention, In Care and Youth Services Programs. To access the *CYCP Act*, visit: <http://www.assembly.nl.ca/Legislation/sr/statutes/c12-2.htm>.
- The *CYCP Act* provides the authority to intervene when a child or youth is being, or is at risk of being, maltreated by their parent(s); and, to place a child or youth in out-of-home care when they cannot safely live at home.

What is the Purpose of the *CYCP Act* Review?

The *CYCP Act* requires the Minister of Children, Seniors and Social Development to review this legislation, and the principles on which it is based, every five years. The *CYCP Act* also states that the review must include public consultations. The 2016 review will focus on the following areas; however, the department welcomes any input or suggestions you may wish to provide:

-  Improving information sharing between the department and other stakeholders;
-  Supporting prevention services for children in need of protection;
-  Enabling the department to license and make regulations for out-of-home placements;
-  Identifying options to improve permanency planning for children and youth;
-  Improving services to youth in need of protection; and,
-  Strengthening services to Aboriginal children and youth.



How to Participate

Input can be provided to the Policies and Programs Branch of the Department of Children, Seniors and Social Development by emailing, calling, faxing, or sending a written submission by December 31, 2016.

Email: cycpreview@gov.nl.ca

Telephone: 1-844-235-3355
1-855-729-2044 (TTY)

Fax: 709-729-6382

Mail: *Children and Youth Care and Protection Act Review*
c/o Policies and Programs Branch
Department of Children, Seniors and Social Development
P.O. Box 8700
St. John's, NL A1B 4J6

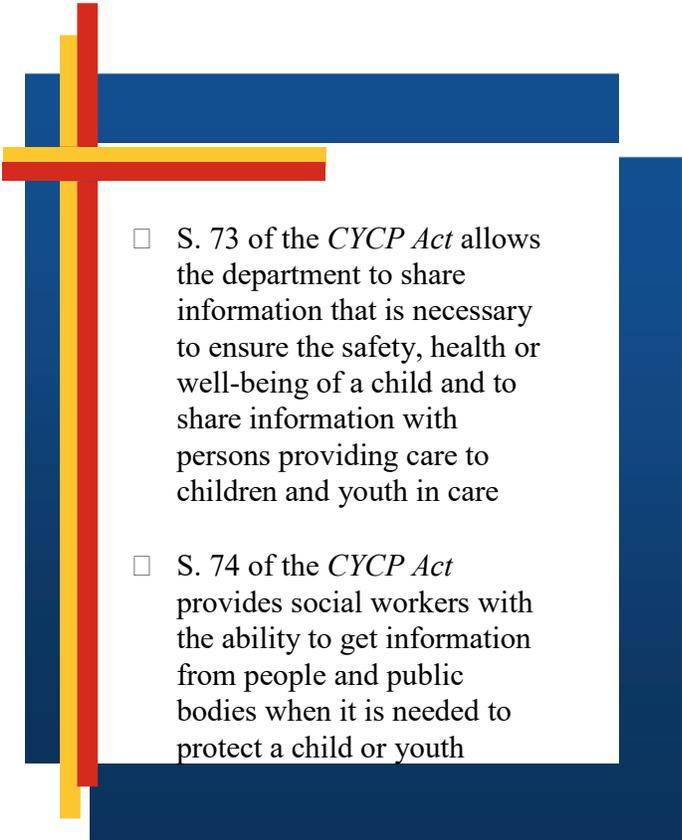


INFORMATION SHARING

The Department of Children, Seniors and Social Development collects sensitive and personal information about children, youth and families involved in the child protection system. To ensure information is kept confidential and used only as required to deliver services, the ability to share this information with others is governed by the *CYCP Act*.

Under the *CYCP Act*, any person holding information that is required by the Department of Children, Seniors and Social Development in relation to children or youth must share it with the department. The *CYCP Act* also provides the department with the authority to disclose information to another person without the individual's consent when it is necessary to ensure the safety, health or well-being of a child. However, the *CYCP Act* does restrict sharing of information in other situations, even when it may be in the best interests of the child. For example, under some circumstances, the department may not have authority to share valuable information about the child, youth or family with medical professionals, Aboriginal leaders, school officials, or policing agencies.

The department is considering changes to the *CYCP Act* that would allow sharing of information when it is in the best interests of the child or youth.

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- S. 73 of the *CYCP Act* allows the department to share information that is necessary to ensure the safety, health or well-being of a child and to share information with persons providing care to children and youth in care
 - S. 74 of the *CYCP Act* provides social workers with the ability to get information from people and public bodies when it is needed to protect a child or youth

Question: How could the department enhance information sharing to ensure services are provided in the best interests of children and youth, while still protecting the right to privacy?

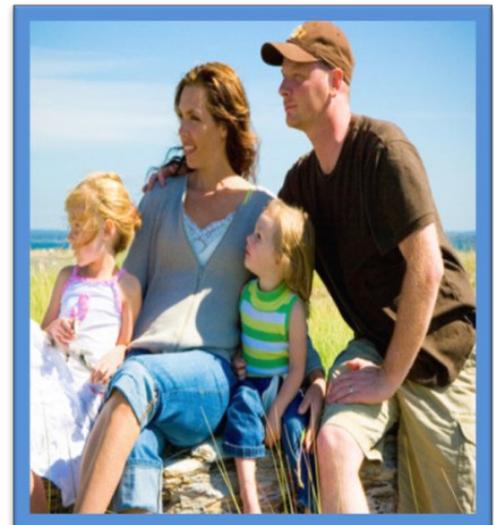
PREVENTION SERVICES

The *CYCP Act* provides social workers with the authority to assess and investigate information that a child is, or may be, at risk of maltreatment by the action, or lack of action, of a parent. The purpose of the *CYCP Act* is to promote the safety and well-being of children and youth who are in need of protective intervention. All decisions to intervene with the family are based on the best interests of the child or youth, as outlined in the general principle of the *CYCP Act*.

Where there is an identified risk that a parent may harm a child or where there is a concern that a parent has already maltreated a child, the department's social workers intervene to assess the safety and risk to the child. If the child is determined to be in need of protection, the social worker and the family work together to develop a plan to reduce risk to the child and build on the family's strengths. The plan identifies supports and services required to change the conditions or behaviours that created risk to that child.

Depending on the strengths, needs and identified risks, a wide range of options may be provided to children and families receiving child protection services. Some examples of these supports and services may include:

- babysitting so the parent can participate in a parenting group or counseling session;
- supervision in the home to ensure the safety and well-being of the child in the home; and,
- parent coaching and behaviour management intervention to increase parenting skills.



These supports and services may be provided by the Department of Children, Seniors and Social Development, other government departments or service providers within the community.

Question: How can prevention services be strengthened to support families and reduce risk of maltreatment to children?

LICENSING AND REGULATION OF EXTERNAL AGENCIES

In Newfoundland and Labrador, foster home placements for children and youth in care are recruited, approved, trained and monitored by the Department of Children, Seniors and Social Development. Other residential placement needs (e.g., group home care) are provided by external service providers that are approved and monitored by the department in accordance with its policies and standards.

Under provincial adoption legislation, the department has the authority to license private adoption agencies to provide various adoption services including training, as well as completing assessments and reports. Regulations set out in the legislation ensure licensed agencies comply with the department's policies and standards.

Other Canadian provinces, such as Ontario, have legislation that allows government to license, regulate and monitor out-of-home placements. These provisions provide flexibility and ensure quality service through legislated Regulations.

Similar to the approach taken under the adoption legislation, the Department of Children, Seniors and Social Development is considering legislative changes to the *CYCP Act* that would allow the department to license external agencies and establish Regulations to recruit, approve, and train staff in out-of-home placements for children and youth in care. This approach would provide an opportunity to enhance current options for out-of-home care by expanding the range of available placements and ensure agencies deliver high quality services as defined by the department's policies and legislative Regulations.

As of December 31, 2015:

- 520 foster homes were providing care for children and youth
- 80% of children and youth in care reside in family based homes and the other 20% reside in staffed residential options (e.g., group homes)

Question: What do you think about the department's approach to enhance the current options for out-of-home care and increase accountability through licensing and

PERMANENCY PLANNING FOR CHILDREN IN CARE

When the Department of Children, Seniors and Social Development becomes involved with a family, the goal is to make a plan for the child in his or her best interests. The department works with families to provide services to allow children to safely stay at home. However, sometimes risks cannot be reduced and an out-of-home placement is necessary. In all instances, the department acts to ensure that children have permanent plans to ensure the child's safety, health and well-being.

As of December 31, 2015:

- 170 children and youth were in the temporary custody of the department
- 525 children and youth were in the permanent custody of the department

When children are unable to live at home with a parent, and arrangements with other family members are not available, a court process is necessary to transfer the care and custody of a child to the Department of Children, Seniors and Social Development. Only the court can make a legal determination that a child is in need of protective intervention and place the child in the care and custody of the department on a temporary or permanent basis. Temporary orders provide time for the department and the family to address the issues that caused the child to need an out-of-home placement. Permanent (continuous custody) orders are only requested when the department determines the child cannot be safely returned to the care of the parent(s).

The *CYCP Act* provides for a maximum of two temporary custody orders, with a possible third order in exceptional circumstances, that may be granted before a permanent plan must be made for a child's care. The maximum length of an order is six months. This approach supports limiting the time a child spends in temporary care while still providing the parent(s) with an opportunity to reduce risk factors at home so the child can return to their care.

Question: How can the department improve permanency planning for children in care?

YOUTH SERVICES

The Department of Children, Seniors and Social Development provides services to youth in need of protection under the voluntary Youth Services Program (YSP). Supports and services under the YSP focus on areas known to improve quality of life, including financial support, housing stability, relationships, life skills, education and emotional well-being. The YSP provides support services to enable youth to remain living at home, or if this is not possible, the YSP offers residential services for youth to live in board and lodging placements with social work support.

There are different services available to youth when they are older than 18 years of age. The eligibility for these services depends on whether or not the youth was in the care of the department on their 16th birthday.

Youth who were not in care on their 16th birthday and are attending a high school/equivalency program are eligible to receive services up to age 19. Youth who were in care on their 16th birthday and are attending an educational program or rehabilitative program are eligible to receive services up to age 21 and to receive funding for post-secondary education.

The Minister of Children, Seniors and Social Development has been directed to conduct a review of services for vulnerable youth. The purpose of this review is to ensure the program is responsive to the unique needs of vulnerable youth and there is no discrimination based on whether a youth was in the care of the department when they turned 16 years old.

- Youth Services is a voluntary program for youth over 16 years of age and in need of protection
- As of December 2015, 205 youth were involved in the Youth Services Program:
 - 82% were not living at home and received residential services
 - 18% lived at home and received supportive services

Question: How can the Youth Services Program be more responsive to ensure it meets the unique needs of vulnerable youth?

SERVICES TO ABORIGINAL CHILDREN, YOUTH AND FAMILIES

In Newfoundland and Labrador, the Department of Children, Seniors and Social Development is responsible for providing child protection services to all children, youth and families. The department has established working relationships with the Nunatsiavut Government, the Mushuau and Sheshatshiu Innu First Nations, and with the Miawpukek First Nation.

- The department works closely with Aboriginal governments and organizations throughout Newfoundland and Labrador
- A MOU with the Nunatsiavut Government and a Working Relationship Agreement with the Sheshatshiu and Mushuau Innu First Nations provide a framework for improved child welfare services in these Aboriginal communities

The department has entered into a Memorandum of Understanding (MOU) with the Nunatsiavut Government, as well as a Working Relationship Agreement with the Sheshatshiu and Mushuau Innu First Nations to improve planning around the safety and well-being of Aboriginal children and youth, and to enhance service coordination and delivery. The agreements provide a framework for improvements in child welfare service accessibility and effectiveness while recognizing the unique culture of these Aboriginal communities. The agreements also support planning processes with representation from both the Department of Children, Seniors and Social Development and the respective Aboriginal governments and organizations.

The *CYCP Act* currently references “culture, identity and community connections”; however, the uniqueness of Aboriginal culture is not explicitly referenced in the *CYCP Act*. In other Canadian provinces and territories, child welfare legislation includes references that support enhanced service delivery to Aboriginal children, youth and families, which reflect the uniqueness of their specific culture and heritage.

Question: How can the *CYCP Act* be enhanced to recognize the unique needs of Aboriginal children, youth and their families?



Questions for Consideration

1. How could the department enhance information sharing to ensure services are provided in the best interests of children and youth, while still protecting the right to privacy?

2. How can prevention services be strengthened to support families and reduce risk of maltreatment to children?

3. What do you think about the department's approach to enhance the current options for out-of-home care and increase accountability through licensing and establishment of regulatory standards?

4. How can the department improve permanency planning for children in care?



5. How can the Youth Services Program be more responsive to ensure it meets the unique needs of vulnerable youth?

6. How can the *Children and Youth Care and Protection Act* be enhanced to recognize the unique needs of Aboriginal children, youth and their families?

7. Do you have any additional ideas or comments you would like to add?

ANNEX F
Summary of Indigenous Submissions and Consultations

Innu Recommendations	Outcome
Add definitions of an Innu child and youth	This recommendation will be achieved through the addition of a definition of an Indigenous child.
Define designated band representative	CSSD will achieve this recommendation.
Define the best interests of an Innu child or youth with unique considerations	CSSD will achieve this recommendation by reflecting Indigenous culture in the best interest principles.
Require culturally-appropriate placements	CSSD will partially achieve this recommendation by including placement considerations for Indigenous children/youth.
Recognize Innu care as a new placement category better adapted to Innu circumstances	CSSD will partially achieve the intention of this recommendation through legislative and policy enhancements related section 41(c) – Transfer of Custody to Another Person.
Provide notice, information-sharing, consultation and participation of Innu representatives	CSSD will achieve this recommendation through enhancements to section 73 – Disclosure without consent and an amendment to section 51 – Application to be heard
Expand and implement family group conferencing and alternate dispute resolution	Recommendation does not require legislative change as legislative authority for family group conferencing and alternate dispute resolution already exists in the <i>CYCP Act</i> . Program development would need to occur to support implementation.
Indigenous Child Ombudsperson or Advocate	Recommendation will not be achieved as advocacy for children/youth receiving government services is the mandate of the Office of the Child and Youth Advocate.
Coordinate with Innu prevention services	Recommendation will be achieved through enhanced information sharing with band representatives for the purposes of case planning and service coordination under section 73

Miawpukek Recommendations	Outcome
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Define Indigenous child	This recommendation will be achieved through the addition of a definition of an Indigenous child
Define Mi'kmaq child	This recommendation will be achieved through the addition of a definition of an Indigenous child.
Define band	This recommendation will be achieved.
Define community	This recommendation will be achieved through the addition of a definition for “kin” or “extended family” in section 2.
Define customary care	CSSD will achieve the intention of this recommendation through legislative and policy enhancements related section 41(c) – Transfer of Custody to Another Person.
Define and require a cultural connection plan	This recommendation will be achieved through amendments to section 29 (Plan for the child) which will require the inclusion of a cultural continuity plan for a child where an application is made to the court.
Recognize Indigenous culture in best interests principles	CSSD will achieve this recommendation by reflecting Indigenous culture in the best interest principles.
Define agency (which would allow Minister to delegate service delivery to the agency)	This recommendation will be achieved through addition of enabling principle that allows for this. In their submission, Miawpukek indicated they envision themselves delivering child protection services through a delegated agency in the future; however, they have also indicated they are not yet ready to assume governance of child protection services.
Prioritize placement of children/youth in care within their community/culture	CSSD will partially achieve this recommendation by including placement considerations for Indigenous children/youth.
Notice and party status for court proceedings	CSSD will achieve this recommendation through enhancements to section 73 – Disclosure without consent and an amendment to section 51 – Application to be heard.
Implementation of Family Group Conferencing	Recommendation does not require legislative change as legislative authority for family group conferencing and alternate dispute resolution already exists in the <i>CYCP Act</i> . Program development would need to occur to support implementation.
Amendments to the Adoption Act	Recommendations related to Adoptions have been deferred to Adoption program for consideration. The <i>Adoptions Act, 2013</i> will undergo statutory review in 2018.

Nunatsiavut Government Recommendations	Outcome
Improved information sharing, including notification processes	CSSD will achieve this recommendation through enhancements to section 73 – Disclosure without consent and an amendment to section 51 – Application to be heard.
There should be a stronger emphasis on family in the general principle of the Act	CSSD will achieve this recommendation by making enhancements to the purpose and best interest principles sections of the <i>Act</i> to further support the practice of family preservation where it is in the best interest of children/youth and their safety and security is the paramount consideration
Recognition of Indigenous culture in best interests principles	CSSD will achieve this recommendation by reflecting Indigenous culture in the best interest principles.
Definition of an Indigenous Child	This recommendation will be achieved through the addition of a definition of an Indigenous child.
Change the definition of the age of a child from up to 16 to up to 19	This recommendation will be partially achieved through increasing the age of a child to 18.
Define and require a cultural plan	This recommendation will be achieved through amendments to section 29 (Plan for the child) which will require the inclusion of a cultural continuity plan for a child where an application is made to the court.
Define designated band representative	CSSD will achieve this recommendation.
Access to prevention and early intervention services	This recommendation will not be achieved through legislative change; however, CSSD strongly supports the efforts of the NG to complement CSSD services with community-driven, culturally appropriate prevention activities.
Require youth to remain in care until they reach the age of majority (remove the opt-out clause)	This recommendation will be partially achieved through the removal of the “opt-out” clause from section 41, which will require youth to remain in continuous custody until 18.
Improved planning for children/youth in care	This recommendation will be partially achieved through amendments to section 29 and the requirement to include a cultural continuity plan and identify permanency plans for children/youth.
Court processes should occur as intended in the <i>CYCP Act</i>	This recommendation cannot be achieved by CSSD alone as the delays in court processes are the result of various systems issues. Resolution to this issue will require consultation with JPS and will require additional JPS resources.
Improved pathways to permanency for Inuit children/youth with Inuit families	This recommendation will be partially achieved through enhancements to section 41(c) will support transfer of custody to kin.

Placements for Indigenous Children/Youth	CSSD will partially achieve this recommendation by including placement considerations for Indigenous children/youth.
Adoption Protocol	Issues related to the adoption of Inuit children will be partially addressed through legislative amendments related to notification, sharing of information to support case planning, the development of cultural continuity plans and the ability to transfer custody to kin.

Nunatukavut Community Council	Outcome
Add definitions of an Indigenous child and youth	This recommendation will be achieved through the addition of a definition of an Indigenous child.
Recognition of Indigenous culture in best interests principles	CSSD will achieve this recommendation by reflecting Indigenous culture in the best interest principles.
Improved planning for children/youth in care	This recommendation will be partially achieved through amendments to section 29 and the requirement to include a cultural continuity plan and identify permanency plans for children/youth.
Prioritize placement of children/youth in care within their community/culture	CSSD will partially achieve this recommendation by including placement considerations for Indigenous children/youth.
Improved information sharing, including notification processes	CSSD will achieve this recommendation through enhancements to section 73 – Disclosure without consent and an amendment to section 51 – Application to be heard.
Define and require a cultural connection plan	This recommendation will be partially achieved through amendments to section 29 and the requirement to include a cultural continuity plan and identify permanency plans for children/youth.
Notice and party status for court proceedings	CSSD will achieve this recommendation through enhancements to section 73 – Disclosure without consent and an amendment to section 51 – Application to be heard.
Define agency (which would allow Minister to delegate service delivery to the agency)	This recommendation will be achieved through addition of enabling principle that allows for delivery of child protection services through a delegated agency.

ANNEX G

COMMUNICATIONS PLAN

Department of Children, Seniors and Social Development

Title: Statutory Review of the *Children and Youth Care and Protection Act*

Issue: Whether to engage with legislative council to draft amendments to the Act.

Consulted with:	Date drafted:	Announcement date:
Michelle Shallow, Director Rick Healey, ADM	March 23, 2017	TBD

COMMUNICATIONS ANALYSIS

Public Environment

- Child protection legislative review and reform had been recommended in various reports, including the Turner Review and Investigation (2006) and the Clinical Services Review (2008).
- These reviews pointed to deficiencies in the child protection system including lack of clear mandate; issues related to individuals and organizations providing the then Department of Child, Youth and Family Services (CYFS) with information necessary to assess risk to children; timely long-term (permanency) planning for children in care; accountability provisions including a review process to update the legislation; support for youth who lack the ability to make their own decisions due to mental capacity issues; and, duty to report child maltreatment as it pertains to the standard for reporting by the public and professionals in the community.
- A commitment was made to review the legislation to focus on gaps and limitations of the *CYFS Act* in order to strengthen the province's child protection system.
- In 2009, the former Department of Child, Youth and Family Services was created and the minister at the time publically stated that the legislative review was a top priority for the department.
- CYFS then established a review team to conduct a review of the *CYFS Act*. The team included a solicitor from the Department of Justice, a senior CYFS departmental official (ADM level), and a CYFS policy and program development specialist.

- The review and consultation process was announced via a news release issued by CYFS in December 2009.
- A discussion guide was developed based on issues previously identified by stakeholders, as well as such reports as the Turner Review and Investigation (2006) and the Clinical Services Review (2008). The guide was posted online and provided those interested with an opportunity to submit feedback on specific areas of the legislation, as well as provide any additional comments on the *CYFS Act*.
- Based on feedback from the consultation process, legislative amendments were drafted and approval was sought to proceed with the development of a new Bill to repeal and replace the *CYFS Act*.
- In May 2010, approval was received and the new *Children and Youth Care and Protection Act (CYCP Act)* received Royal Assent on June 24, 2010.
- Proclamation of the new *CYCP Act* was delayed until June 30, 2011, to allow for necessary policy revisions, staff training and notification of key stakeholders.
- The purpose of the *CYCP Act* is to promote the safety and well-being of children and youth who are in need of protective intervention by omission or commission of the parent. This legislation provides authority for the delivery of child protection, in care and youth services.
- The *CYCP Act* contained significant changes and child-focused amendments including:
 - adding a purpose statement - ‘to promote the safety and well-being of children and youth who are in need of protective intervention’ (s.8);
 - extending the age of continuous custody (permanent care of CYFS) from 16 up to 18 years to allow youth to voluntarily remain in custody (s.41);
 - extending the Youth Services Program from 18 years up to 19 years for at-risk youth not previously in care (s.67);
 - adding a provision to allow CYFS to remove youth (16 to 18 years) unable to protect themselves due to a lack of mental capacity (s.21);
 - adding a publication ban to prohibit the publication of information that would identify the child in court proceedings (s.52);
 - reducing the number of temporary custody court orders from a maximum of four orders to a maximum of three to expedite planning for children (s.33);
 - removing the family services provision, which was accessible to all families regardless of whether the child was in need of protection (s.10 of the former *Act*); and,
 - establishing a mandatory review process (including public consultations) every five years (s.80).
- During winter 2011, Dr. Ken Barter, a professor at Memorial University’s School of Social Work at the time, published an article entitled “Newfoundland and Labrador’s Attempt to Protect Children and Youth: A Critical Look” in *Canada’s Children Journal*. Barter’s article is based on a fundamental question that came to mind: “How can a new *Children and Youth Care and Protection Act* create the best child protection system in the country, particularly in a province that only 10 years ago proclaimed the *Child, Youth and Family Services Act*, an act that represented a significant shift in child protection services?”
- Barter was critical of the new *Act* and wrote: “Legislative review was suggested in many of the recommendations [from reports such as the Clinical Services Review, and the Turner

Report], but no report suggested that the *CYFS Act* was a poor piece of legislation. In fact, it was seen as being a very good and progressive framework given its philosophy and principles. Yes, it required some adjustments, but not to be replaced.” Barter further stated: “...there is no way this *Act* will assist in ‘creating the best child protection system in the country’. There was support for the *CYFS Act*. ... It is beyond comprehension why the *CYFS Act* is being replaced.”

- A key area that was considered as part of the statutory review process was services to youth, given it was included in the minister’s mandate letter in December 2015. The letter states: “Some young people need extra help as they transition to adulthood. Services for vulnerable youth should not discriminate based on whether a child was in the care of the Department of Child, Youth and Family Services when they turned 16. You are directed to review the Youth Services Program to ensure that the program is responsive to the unique needs of vulnerable youth.”
- The focus on reviewing the department’s Youth Services Program was mainly attributed to a report released by the Office of the Child and Youth Advocate. On December 3, 2013, the Child and Youth Advocate held a news conference and issued a press statement to release an investigative report entitled *Sixteen*. According to the statement, “*Sixteen* is the story of a young person crying for help. One who was removed from his mother’s care, but the Department of Child, Youth and Family Services several weeks before his sixteenth birthday. At the age of 16 he signed a youth services agreement and moved from a supervised residential settling into a shelter, and then another shelter, until ultimately moving into a bedsitting room where he lived for seven months until the date of the fatal fire that prompted this investigation.”
- During Question Period on March 15, 2016, the CSSD Opposition Critic Tracey Perry asked Minister Gambin-Walsh if she had “instructed her department to act on undertaking a review of the Youth Services Program to ensure that it is responsive to the unique needs of our vulnerable youth?” The minister responded that “there will be a review completed...in June of 2016.”
- CSSD commenced a statutory review on June 30, 2016, which included in-person and virtual dialogue sessions, focus groups, questionnaires, written submissions and surveys.
- There were a total of 40 stakeholder consultations (in-person and virtual), 11 written submissions, and 173 survey responses.
- In early March 2017, significant media attention focused around the number of Labrador children in foster care in Roddickton, and the inability to find placements within their communities and culture.
- The Minister of CSSD stated at the time she's not fully satisfied with the way the child protection system is being administered in Labrador, and hopes that ongoing dialogue with Aboriginal leaders in the region will lead to some much-needed improvements.
- The minister also indicated that a review of the CYCP Act is well underway and government will “try to adjust the legislation so we can then move forward and change some policies.”

Strategic Considerations

- In accordance with the *CYCP Act*, section 80 states: (1) “the Minister shall, every five years, conduct a review of this *Act* and the principles on which it is based and consider the areas which may be improved; and, (2) a review conducted under subsection (1) shall include public consultations. Given June 30, 2016, was five years since the *Act* was proclaimed, the legislative review began at that time.
- In preparation for the statutory review, a number of procedural and policy related issues were identified. This information was collected from multiple sources including ongoing feedback from Children, Seniors and Social Development staff, other government departments and agencies, and key stakeholders in the community; the minister’s mandate letter of December 14, 2015; as well as preliminary meetings with representatives from key government departments and offices during February 2016 (Health and Community Services; Education and Early Childhood Development; Advanced Educations and Skills; Justice and Public Safety; Children, Seniors and Social Development; Intergovernmental and Indigenous Affairs Secretariat; Office of Labrador Affairs; and Women’s Policy Office).
- A number of substantive policy areas were identified by stakeholders including: prevention, services to youth, permanency planning for children, licensing of foster homes, information sharing, and Aboriginal issues. Amendments to these particular areas will have a greater potential to impact children, youth and families, as well as potentially have human and financial resource implications.
- The significant legislative recommendations are:
 - Enhancing disclosure without consent provisions to improve information sharing in the best interests of children;
 - Strengthening prevention services to support families and prevent the occurrence of child maltreatment;
 - Provide legislative authority to develop a licencing and regulation regime for out-of-home placements for children and youth in care;
 - Improving permanency planning for children in care;
 - Improving services to youth in need of protection by removing barriers and extending services;
 - Improving services to Indigenous children, youth and families.
- There are also minor legislative changes to the *Act* which are technical in nature and address procedural issues.
- Child protection legislation is very specific and not of interest to the general public, but rather of interest to those individuals directly involved with the department. Several clients, who were already well known by the department, submitted feedback, but the focus was on the individual case rather than the legislation itself.
- The statutory review and public consultation process demonstrated how government adhered to section 80 of the *Act*, as was open, transparent, and focused on ensuring public engagement.
- As improving services to Aboriginal children was a focus area of the consultations, the minister reiterated this message during interviews conducted in February 2017 regarding children from Labrador residing in foster care in Roddickton.

Target Audiences

Internal

- Department of Advanced Educations and Skills
- Department of Education and Early Childhood Development e.g., Child Care Division)
- Department of Health and Community Services (e.g., Mental Health and Addictions Division, Community Supports Program)
- Department of Justice and Public Safety (e.g., Family Justice Services, Family Litigation Unit)
- Department of Children, Seniors, and Social Development (Disability Policy Office, Poverty Reduction Strategy)
- Office of Labrador Affairs
- Intergovernmental and Indigenous Affairs Secretariat
- Office of Public Engagement
- Women's Policy Office
- Premier's Office
- Executive Council

External

- Current and former CSSD clients (e.g., children, youth and their families who avail of provincial child, youth and family services and programs)
- Office of the Child and Youth Advocate
- Newfoundland and Labrador of Foster Families Association
- Service Providers - Staffed Residential Placements Resources (e.g., Key Assets Newfoundland and Labrador, Waypoints, Shalom, and Blue Sky)
- Community groups who advocate for, or work with, children, youth and their families (i.e. Daybreak, Choices for Youth, St. John's Native Friendship Centre, Transition House Association of Newfoundland and Labrador, Murphy Centre, Community Youth Network)
- Women's advocacy groups (e.g., Provincial Advisory Council on the Status of Women, Mokami Status of Women's Council, Newfoundland Aboriginal Women's Network, Multicultural Women's Organization of Newfoundland and Labrador)
- Regional Health Authorities (including health professionals who treat and care for children youth and their families – community health and nursing services, mental health and addictions)
- English and French School Districts
- Newfoundland and Labrador Housing Corporation
- Newfoundland and Labrador Housing and Homelessness Network
- Judiciary (e.g., Provincial and Supreme Court)
- Newfoundland and Labrador Legal Aid Commission
- MUN School of Social Work
- Newfoundland and Labrador Association of Social Workers

- Royal Newfoundland and Labrador Constabulary
- Royal Canadian Mounted Police
- Nunatsiavut Government
- Sheshatshiu Innu First Nation
- Mushuau Innu First Nation
- Miawpukek First Nation
- Qalipu First Nation
- NunatuKavut Community Council
- Provincial Advisory Council for the Inclusion of Persons with Disabilities
- Provincial Advisory Council on Crime and Community Safety
- Provincial Mental Health and Addictions Advisory Council
- Public
- Media
- MHAs
- Opposition party
- NDP

Consultations

- In accordance with the *CYCP Act*, a public consultation process was a requirement of the legislative review. A consultation plan was developed which included a discussion guide to highlight the substantive policy areas outlined previously.
- The consultations occurred between June 30 and December 31, 2016.
- Prior to the proclamation of the *CYCP Act* in June 2011, the department underwent a review of the former legislation and initiated a consultation process in December 2009.
- Based on the feedback from that consultation process, legislative amendments were drafted and approval was obtained to proceed with the development of a new Bill to repeal and replace the *CYFS Act*.

Communications Objectives

- To communicate that the Provincial Government completed the statutory review of the *CYCP Act*, and will now move forward with amendments to the Act, based on the feedback provided during the consultation process.
- To demonstrate the Provincial Government's commitment to protect and care for vulnerable children and youth, with a specific focus on further strengthening the child protection legislation.
- To demonstrate the Provincial Government's commitment to openness, transparency and accountability.

COMMUNICATIONS STRATEGY

Overall Approach

- In keeping with government's commitment to openness and transparency, a What We Heard document has been developed and will be shared with stakeholders and posted to the CSSD website.
- The amendments to the current CYCP Act will be introduced into the House of Assembly in Fall 2017.
- Communications materials will be prepared for the introduction of the amendments into the House and will include a news conference to outline the changes when the legislation receives second reading.

Key Messages

- The protection and care of vulnerable children and youth is a core value of our government, and the *Children and Youth Care and Protection Act* is a key piece of helping ensure this protection.
- This legislation guides the delivery of child protection, in care and youth services programs throughout Newfoundland and Labrador, and it is important that it is informed by those who play a role in this important work.
- After a comprehensive review process, government is now drafting amendments to the *Children and Youth Care and Protection Act* to reflect the important information that came forward during the process. It is critical that government's decisions are informed by engagement with stakeholders and individuals.
- We heard from our key stakeholders, and our amendments to the Act will reflect the feedback we heard on information sharing, prevention services, permanency planning and improvement to services for Indigenous children in care, to name a few.
- As part of my mandate as minister, the Premier directed me to review the Youth Services Program to ensure that the program is responsive to the unique needs of youth. This work is now completed, and the amendments will reflect the changes needed to services for some of our young people who need extra help as they transition to adulthood.
- We are committed to working closely with all Newfoundlanders and Labradorians to ensure our children and youth benefit from the sense of well-being they deserve.
- Strengthening the legislation which governs their protection is paramount for the Provincial Government.

The Announcement

As per the normal process of introducing legislation into the House of Assembly, the amendments will be announced when they are given second reading. A news release, along with the other materials required for debate in the House, will be prepared in advance of the legislation being brought forward.

- The Minister of Children, Seniors and Social Development will also be available for media interviews upon request.

Minister's Involvement

- The Minister of Children, Seniors and Social Development will be the primary spokesperson.

Interdepartmental coordination

- CSSD received feedback from the departments of Justice and Public Safety; Health and Community Services; Advanced Education and Skills; Education and Early Childhood Development; as well as the Women's Policy Office, Intergovernmental and Indigenous Affairs Secretariat and Office of Labrador Affairs.

Briefing of Members of the House of Assembly

- MHAs will be briefed on the amendments prior to being introduced into the House of Assembly.

Internal Communications

- CSSD employees and Executive had the opportunity to provide feedback, and will continue to be engaged throughout the process to introduce amendments to the Act.

Follow-up Activities

- Media monitoring and follow-up as necessary. The Minister of Children, Seniors and Social Development will respond to the matter, should it garner public attention.

Evaluation Criteria

- No evaluation criteria required.

Budget

- No communications budget required.

Prepared by: Melony O'Neill, Director of Communications

Approved by: Bruce Cooper, Deputy Minister

ANNEX H Preliminary Regulatory Analysis

A Regulatory Impact Analysis, including a determination of whether there will be any net change in regulatory count, will be undertaken concurrent with drafting revisions to the *Children and Youth Care and Protection Act* and the associated regulations. Cabinet will be presented with a detailed Regulatory Impact Analysis at that time. The following is a preliminary overview of the legislative and regulatory changes which will impact clients, stakeholders and government.

Enhance disclosure without consent provisions to improve information sharing in the best interests of children and youth

CSSD is proposing two legislative amendments governing the disclosure of information as follows:

- 1) Allow CSSD to share information when it is in the *best interest* of the child, as opposed to only when it is *necessary* to ensure the safety, health or well-being of a child.

This amendment addresses identified concerns regarding the disclosure of information from CSSD and could enhance the efficiency of services to vulnerable families who are receiving services from multiple service providers. By allowing CSSD to share information without consent this amendment will contribute to enhanced coordination and collaboration between CSSD and other service providers.

- 2) Clarify that CSSD has a right to obtain information for all purposes related to the *Act* and provide a provision to allow CSSD to obtain a court order to obtain information if a judge is satisfied the information is necessary.

This amendment addresses identified concerns with CSSD being unable to access relevant information regarding a parent which may impact the safety, health or wellbeing of a child. The proposed amendment will contribute to quality services by ensuring that relevant information is shared with CSSD. Allowing a court to order an individual/organization to provide CSSD with information has regulatory impacts. However, in these instances the court process will be used as a last resort when the disclosure of information is necessary to ensure the safety, health and wellbeing of a child.

Strengthen prevention services to support families and reduce the risk of child maltreatment

CSSD's recommended approach to strengthen the *Act's* focus on family preservation where it is in the best interest of children/youth has no regulatory impacts. Enhanced services in this area would support CSSD's efforts to maintain, support and preserve families in the least disruptive manner that would adequately protect the child. Furthermore, services to promote the preservation of families could lead to a decrease in the necessity of more intrusive interventions to protect children.

Provide legislative authority to develop a licensing and regulation regime for out-of-home placements for children and youth in care

CSSD is proposing a legislative amendment to include an enabling provision in the legislation which would allow for the development of a licensing and regulatory regime for out-of-home placements for children and youth in care, including: 1) developing and operating residential placements; 2) recruiting, assessing, approving, operating and supporting specialized foster homes; and 3) recruiting, assessing, approving, and supporting regular foster homes.

Six Canadian jurisdictions have licensing regulations for residential placements, five have licensing regulations for specialized foster care and four have licensing regulations for regular foster care. However, only one jurisdiction allows non-governmental organizations to license regular foster homes and two jurisdictions allow non-governmental organizations to operate regular foster homes in addition to homes operated by child welfare authorities.

The development of a licensing and regulatory regime in this area will present new regulatory impacts, which reflect current policies, procedures and standards for out-of-home placements. However, CSSD will minimize new regulatory impacts by eliminating duplication between the current processes for approving and monitoring placement resources and the introduction of new licensing and regulation regime. The proposed legislative amendment is limited to the inclusion of an enabling provision in the *Act*. CSSD will undertake a comprehensive Regulatory Impact Analysis prior to submitting recommendations to Cabinet on the structure and scope of the licensing and regulatory regime.

Improve permanency planning for children and youth in care

CSSD is proposing two substantive legislative amendments to enhance permanency planning as follows:

- 1) Permit an order to place a child in the custody of another person prior to the expiration of all the temporary custody orders.

The proposed amendment will enhance efficiency of services for children and their families by allowing an order to transfer custody of a child to another individual (e.g. a relative/ significant other) during a temporary custody order, rather than delaying this until the expiration of all temporary custody orders. The amendment provides necessary regulatory flexibility to streamline decision making in instances whereby a child is unable to return home and it is in their best interest to have custody transferred to another individual.

- 2) Require a Plan for the Child's permanency for all custody applications, not only those where CSSD is applying for continuous custody.

The proposed amendment requires CSSD to ensure permanency planning has occurred in all custody applications rather than only those whereby CSSD is applying for continuous custody. While the proposed amendment places additional regulatory requirements on CSSD, the requirements are necessary to ensure permanency planning for children is occurring at the earliest possible opportunity.

Improve services to youth in need of protection by removing barriers and extending services

CSSD is proposing four substantive legislative amendments to improve services to youth in need of protection as follows:

- 1) Amend section 11 (Duty to Report) to include youth in need of protection. This extends the mandatory reporting of maltreatment from age 16-18.
The proposed legislative amendments will raise the age of mandatory reporting of maltreatment to include youth up to age 18. While requiring mandatory reporting up to age 18 has regulatory impacts, the proposed amendments may better allow CSSD to identify vulnerable youth who may otherwise not be offered services necessary to ensure their safety, health and well-being. Enhancing the age of mandatory reporting will align the *Act* with 8 other Canadian jurisdictions. Services to youth will continue to be voluntary.
- 2) Remove the ability for youth in care to “opt out” of continuous custody.
The proposed legislative amendments will have a significant regulatory impact on those youth wishing to “opt out” of continuous custody before they turn 18. The impact may be justified as many stakeholders have noted 16 is too young for a youth to decide to leave care. NL is one of only three Canadian jurisdictions which currently allow youth to leave continuous custody before 18 years of age.
- 3) Provide a more equitable service delivery model to all youth in need of protective intervention by applying the same eligibility criteria to all youth in the youth services program, and allow them to receive services until their 21st birthday, regardless of whether they were in care on their 16th birthday.
The proposed amendment will provide consistent services to youth, regardless of whether they were in care at 16 and lessens the regulatory requirements youth must meet to receive services.
- 4) Remove the requirement for youth to participate in an education or rehabilitative program to receive services and replace it with a requirement to engage in a Youth Services Plan that is specific to the youth’s needs.
The regulatory impact of the proposed amendment is contingent on how Youth Services Plan is defined in policy. The amendment provides necessary regulatory flexibility to CSSD to operationalize program requirements.

Improve services to Indigenous children, youth and families

Canadian jurisdictions exhibit significant variability in their legislative and policy parameters governing services to Indigenous children, youth and families. NL is one of only three Canadian jurisdictions which do not have specific legislative provisions regarding cultural continuity planning, notification to Indigenous representatives, Indigenous placement considerations, or delegation of service delivery to Indigenous agencies. The remaining jurisdictions have legislative provisions in some or all of these areas.

CSSD is proposing four substantive legislative amendments to improve services to Indigenous children, youth and families as follows:

- 1) Require cultural continuity planning for children/youth in care that are placed with a non-Indigenous family.

The proposed amendment requires CSSD to ensure cultural continuity planning for Indigenous children and youth is incorporated into the Plan for the Child. While the proposed amendment places additional regulatory requirements on CSSD, the requirements are necessary to ensure CSSD is incorporating cultural continuity considerations into the permanency planning for children.

- 2) Require information related to court matters to be shared with designated Indigenous representatives.

The proposed amendment requires CSSD to provide notification of court proceedings, and allows Indigenous governments/organizations an opportunity to have its views heard in court. While the amendment may impact the court process by allowing Indigenous governments/organizations to have its views considered, CSSD has been working to enhance its collaboration with Indigenous governments/organizations and this would represent an important development toward enhancing collaboration to protect the safety, health and well-being of Indigenous children, youth and families.

- 3) Add placement considerations for Indigenous children/youth in care to focus on placements within their community.

The proposed amendment requires CSSD to consider the placement needs of Indigenous children/youth. While the proposed amendment places additional regulatory requirements on CSSD, the requirements are necessary to ensure CSSD is incorporating cultural considerations when placing children/youth.

- 4) Include a legislative provision to allow the Minister to delegate service delivery to Indigenous agencies.

CSSD is proposing a legislative amendment to include an enabling provision in the legislation which would allow for the Minister to delegate service delivery to Indigenous agencies. The delegation of service delivery to Indigenous agencies is consistent with best practices across Canada, and is consistent with recent developments whereby some Indigenous governments in NL are taking greater responsibility for social development and supporting vulnerable families. The development of policies and procedures to operationalize the legislative amendments will reflect the current policies, procedures and standards guiding CSSD service delivery.

The proposed legislative amendment is limited to the inclusion of an enabling provision in the *Act*. CSSD will undertake comprehensive analysis prior to operationalizing the policies, procedures and standards which must be in place before delegation can occur.

Minor legislative adjustments

There are minor legislative adjustments proposed in 22 Sections of the *Act*. The proposed amendments are predominantly technical in nature and address procedural issues identified by CSSD and JPS. While some of the proposed amendments provide for the introduction of minimal regulatory requirements (e.g. requiring an application for an Order to Prohibit Contact under s.18 to be served), the introduction of these requirements are in keeping with best practices and are designed to enhance the efficiency and quality of services.

Proposed legislative amendments in the above-noted areas are consistent with the intent of minimizing the regulatory impact on the delivery of child protection programming and are designed to enhance the efficiency and quality of the services delivered by CSSD. During the development of the proposed amendments, regulatory considerations were incorporated into the analysis. These considerations included: 1) a cost-benefit analysis of enacting the proposed recommendations; 2) use of plain language; 3) a timely regulatory response; 4) transparent development of regulatory requirements; 5) results-based regulatory design; and 6) a sunset provision to require review of the *Act* and the principles on which it is based every five years. A Regulatory Impact Analysis, including a determination of whether there will be any net change in regulatory count, will be undertaken concurrent with drafting revisions to the *Children and Youth Care and Protection Act* and the associated regulations.

ANNEX I
Financial Analysis Youth Services Amendments

Financial Considerations are related to the proposed amendments to the legislative provisions for services to youth as follows:

- 1) Amend section 11 (Duty to Report) to include youth in need of protection. This extends the mandatory reporting of maltreatment from age 16-18.

Section 11 requires that when an individual has information that a child is or may be in need of protective intervention, the individual shall report the information to CSSD or a peace officer. In fiscal years 2011-12 to 2015-16, CSSD received an average of 7783 referrals per year. However, as referrals are documented by family and not individual children, CSSD is unable to determine the distribution of referrals by age of child.

Increasing the mandatory reporting age from children below 16 to children/youth below 18 will likely increase the volume of referrals. However, while it is not legislatively mandated, CSSD does receive some referrals regarding the safety, health and wellbeing of youth age 16 and 17, and in those instances provide services under the voluntary Youth Services (YS) program. As CSSD already receives some referrals on this age group, CSSD anticipates raising the mandatory reporting age to include youth will enhance the number of referrals by approximately 10 per cent per year. In recognition of the regional variation and fluctuation in the rate of referrals, CSSD anticipates it will require two full-time equivalents (FTE) Social Worker I (SWI) positions to meet the increase in anticipated referral volume. The staffing costs to implement this change would be \$149,955 per year (\$74,977.50 x 2 FTE SWIs). This does not include program growth which may occur if additional calls to CSSD results in additional youth availing of the YS program.

- 2) Remove the ability for youth in care to “opt out” of continuous custody.

Youth can remain in continuous custody until they turn 18. Youth are encouraged to remain in custody; however, they are able to “opt-out” of custody after they turn 16. If youth choose to opt out of continuous custody, they have the option to participate in the voluntary YS program. If youth leave custody and enter YS, they can remain in their foster home and receive the same services and financial support as if they were still in care until they turn 19 or finish high school (whichever comes first).

There will be an increased cost associated with removing the ability for youth to “opt-out” of continuous custody before their 18th birthday. CSSD anticipates that approximately 15 youth per year would have to remain in custody who may have otherwise left care. While some youth may currently choose to leave custody and completely sever their relationship with CSSD, others may choose to avail of services through the voluntary YS program. Not allowing youth to leave is anticipated to require

one FTE SWI position. The staffing costs to implement this change would be 74,977.50 per year.

- 3) Provide a more equitable service delivery model to all youth in need of protective intervention by applying the same eligibility criteria to all youth in the youth services program, and allow them to receive services until their 21st birthday, regardless of whether they were in care on their 16th birthday.

The YS program has different eligibility criteria, and maximum ages at which services are available depending on whether a youth was in care when they turned 16. The Office of the Child and Youth Advocate and many youth serving organizations including Choices for Youth has recommended eligibility for YS should be expanded to allow all youth to remain in the program until at least 21. The mandate letter to the Minister of CSSD commits to reviewing the YS program, and notes that services should not ‘discriminate’ based on whether a youth was in care at 16. To meet government’s commitment, and to provide a more equitable service delivery model to meet the needs of youth in need of protective intervention, CSSD is recommending amendments to Section 67 to apply the same the eligibility criteria to all youth in the youth services program, and allow them to receive services until the age of 21, regardless of whether they were in care on their 16th birthday.

Expansion of the eligibility criteria for those who were not in care is anticipated to increase the number of youth in the YS program by approximately 45 youth. To estimate program growth which may occur if the eligibility criteria for those who were not in care at 16 was revised to match those who were in care at 16, CSSD undertook an analysis based on the age of youth in YS depending on whether they were in care at 16 using an average of CSSD quarterly data for quarters ending December 2013, December 2014 and December 2015.

Age	Average Number of Clients (based on quarterly data)	1st Year	2nd Year
16	17	17	17
17	47	47	47
18	20	35	35
19		18	18
20		0	9
21		0	0
Anticipated increase in the number of clients		34	43

To estimate potential program growth CSSD assumed: 1) the average number of 18 year olds in YS would increase by 75 per cent; 2) the average number of 18 year olds who continue in the program and transition to the 19 year old group is 50 per cent; and 3) the

average number of 19 year olds who continue in the program and transition to the 20 year old group is 50 per cent.

These assumptions were calculated based on the age distribution of youth who were not in care at 16 (who had to meet the other eligibility criteria) for the same period. Overall program growth in the YS program is anticipated to be 45 youth within two years. Based on the current estimates of program costs per clients (\$22,500 per youth per year in 2015-16), this would cost an additional \$1,012,500 per year in direct client costs, as well as a further \$149,955 (2 SWI FTEs) based on current staffing models.

- 4) Remove the requirement for youth to participate in an education or rehabilitative program to receive services and replace it with a requirement to engage in a YS Plan that is specific to the youth's needs.

Currently youth in YS develop and work toward goals identified in a YS Plan. However, eligibility to participate in the program is tied directly to youth's participation in an educational or rehabilitative program. Particularly vulnerable youth who, due to their individual needs and vulnerabilities, do not comply with CSSD eligibility requirements must leave the YS program when they turn 18. In reality, some of the most vulnerable youth do not qualify to receive supports as they transition to independence, and must avail of the adult income support program which provides financial support, but does not provide the case management support often required to assist youth to work through their challenges and transition to independence. Being able to work with youth on their presenting issues and support them to attend an educational/rehabilitative program in the future, rather than applying punitive exclusionary criteria, has been identified by CSSD staff, the Office of the Child and Youth Advocate, and youth serving organizations as an opportunity to enhance CSSD's ability to support vulnerable youth.

In addition to revising the eligibility criteria for youth who were not in care on their 16th birthday to match those who were in care on their 16th birthday, CSSD is recommending replacing the requirement to participate in an educational or rehabilitative program to receive services with the requirement to engage in a YS Plan that is specific to the youth's needs. The requirement to participate in a YS Plan will be operationalized in policy as part of the ongoing review of the YS program. As the parameters of program eligibility are a significant factor in the total number of clients who participate in the program, further direction will be sought prior to operationalizing the revised eligibility criteria. If, at that time, Government does not wish to expand the eligibility criteria for the youth service program beyond the current level, than no additional resources will be required and CSSD can operationalize a YS Plan as requiring youth to participate in an educational or rehabilitative program.

- 5) Other staffing costs required for CSSD's staffing model in the Child and Youth Services Branch

The organizational model for CSSD's Child and Youth Services Branch, (MC2010-0277) was developed using caseload and employee data. The organizational model was designed to enable social workers to "get back to the basics" and to wrap other required supports (supervision, administration, social work assistants, finance, IT and file disclosure) around them. The foundation for the organizational structure is based on jurisdictional research and caseload data and is as follows:

- 1 Social Worker to 20 cases;
- 1 Clinical Program Supervisor to 6 Social Workers, 1 Social Work Assistant and 1 Clerical Support;
- 1 Zone Manager to 6 Clinical Program Supervisors; and
- 1 Regional Director to 3-4 Zone Managers.

Adding an additional five Social Worker I positions, as required due to the above-noted legislative amendments, will require one additional Clinical Program Supervisor (\$94,667.00), Social Work Assistant (\$56,647.50) and Clerk Typist III (\$47,989.50) fulltime equivalent positions. These positions and the five Social Worker I positions noted above will be distributed across NL based on regional needs and caseload statistics.

Financial Implications are related to proposed amendments to the legislative provisions for services to youth for a total cost of \$1,586,692 as outlined in the table below:

1.	Amending section 11 (Duty to Report) to include youth in need of protection. This extends the mandatory reporting of maltreatment from age 16 to 18.	\$149,955 – annual cost for two Social Worker I fulltime equivalents. This does not include program growth which may occur if additional calls to CSSD results in additional youth availing of the YS program.
2.	Removing the ability for youth in care to "opt-out" of continuous custody at age 16.	\$74,978 – annual cost of one Social Worker I fulltime equivalent.*
3.	Provide a more equitable service delivery model to all youth in need of protective intervention by applying the same eligibility criteria to all youth in the youth services program, and allow them to receive services until their 21 st birthday, regardless of whether they were in care on their 16 th birthday.	\$1,012,500 per year in direct client costs and \$149,955 for two Social Worker I fulltime equivalents.
4.	Remove the requirement for youth to participate in an educational or rehabilitative program to receive services and to replace it with a requirement to engage in an Youth Services Plan that is specific to the youth's needs.	The requirement to participate in a Youth Services Plan will be operationalized in policy as part of Youth Services Review. Further direction will be sought.

5.	Other staffing costs required for CSSD's staffing model in the Child and Youth Services Branch.	\$199,304 – annual cost of one Clinical Program Supervisor (\$94,667), one Social Work Assistant (\$56,647.50), and one Clerk Typist III (\$47,989.50) fulltime equivalents.
TOTAL		\$1,586,692

* The direct client costs if a youth did not have the option to leave could range from \$30,000 to \$284,000 (annually per youth) depending on placement type.

ANNEX J

What We Heard Document



Review of
Children and Youth Care and Protection Act
What We Heard

March 2017



Children, Seniors and Social Development



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Introduction

The *CYCP Act* was proclaimed on June 30, 2011, and is the legislation that governs some of the programs and services delivered by the Department of Children, Seniors and Social Development including the Protective Intervention, In Care and Youth Services Programs. To access the *CYCP Act*, visit: <http://www.assembly.nl.ca/Legislation/sr/statutes/c12-2.htm>.

The *CYCP Act* provides the authority to intervene when a child or youth is being, or is at risk of being, maltreated by their parent(s); and, to place a child or youth in out-of-home care when they cannot safely live at home.

The *CYCP Act* requires the Minister of Children, Seniors and Social Development to review this legislation, and the principles on which it is based, every five years. The *CYCP Act* also states that the review must include public consultations. The 2016 review focused on the following areas; however, the department welcomed any other input or suggestions respondents wished to provide:

- Improving information sharing between the department and other stakeholders;
- Supporting prevention services for children in need of protection;
- Enabling the department to license and make regulations for out-of-home placements;
- Identifying options to improve permanency planning for children and youth;
- Improving services to youth in need of protection; and,
- Strengthening services to Aboriginal children and youth.

Engagement Process

The legislative review was publically announced on June 30, 2016 with the launch of an online Discussion Guide. Those interested in participating were encouraged to contribute to the review through mail, email or telephone submission. In addition to welcoming public submissions, the department developed an engagement process to invite input from a broad range of individuals and stakeholders. The engagement process occurred between July 1 and December 31, 2016 and gathered feedback from stakeholders in several ways. Over 30 organizations participated through written submissions, virtual or in-person dialogue sessions, focus groups, or audience-specific questionnaires. One hundred and seventy three responses were received from surveys distributed to children, youth and families receiving services from CSSD.



Results

Participants were asked to provide comment on six key questions, in addition to any other feedback they wished to provide. Participants provided a tremendous amount of feedback and the following provides a summary of input received related to each of these areas.

Question: How could the department enhance information sharing to ensure services are provided in the best interests of children and youth, while still protecting the right to privacy?

The Department of Children, Seniors and Social Development collects sensitive and personal information about children, youth and families involved in the child protection system. To ensure information is kept confidential and used only as required to deliver services, the ability to share this information with others is governed by the CYCP Act.

Participants suggested that:

- The department should share information with other service providers to improve the coordination of services and supports for children and families.
- They would be better positioned to support children and families if CSSD shared relevant information with them.
- The department increase the use of case conferencing as a means to support information sharing and collaboration among those involved with a family.
- The department provides social workers with clear guidelines about what information can be shared, and with whom, to ensure children receive the supports they require.
- The department consider using the “circle of care” approach used in the health system as an effective model for coordination of services and sharing of information.
- Processes should be developed to share information about Aboriginal children, youth and families receiving services from the department with representatives of the Aboriginal government or organization.



Question: How can prevention services be strengthened to support families and reduce risk of maltreatment to children?

The *CYCP Act* provides social workers with the authority to assess and investigate information that a child is, or may be, at risk of maltreatment by the action, or lack of action, of a parent. The purpose of the *CYCP Act* is to promote the safety and well-being of children and youth who are in need of protective intervention. The supports and services families require may be provided by the Department of Children, Seniors and Social Development, other government departments or service providers within the community.

Participants provided the following comments related to prevention services:

- Consider how government can provide families with the early intervention supports they need to prevent child maltreatment from occurring.
- Consider changing the purpose of the legislation to include voluntary prevention services.
- Maintain the focus on child protection under the *CYCP Act*.
- Consider developing a cross-departmental initiative to provide prevention and early intervention supports to families.
- Consider whether the placement of social workers in schools would provide increased access to support for families.
- Consider ways to improve access to services that families need including mental health and addiction counselling and parent skills training.
- Ensure families are supported to access services they need (e.g., transportation and babysitting to attend a service).
- Consider ways government can support community organizations that currently provide, or have the interest and expertise to provide, prevention services to families.
- When developing programs, consider the range of services families need including prevention, support and child protection intervention.



Question: What do you think about the department's approach to enhance the current options for out-of-home care and increase accountability through licensing and establishment of regulatory standards?

The Department of Children, Seniors and Social Development is considering legislative changes to the CYCP Act that would allow the department to license external agencies and establish regulations to recruit, approve, and train staff in out-of-home placements for children and youth in care. This approach would provide an opportunity to enhance current options for out-of-home care by expanding the range of available placements and ensure agencies deliver high-quality services as defined by the department's policies and legislative regulations.

Participants offered the following feedback regarding a licensing and regulation regime:

- Many participants supported the department moving in this direction, particularly if it resulted in increased accountability for service providers.
- Some participants were against the involvement of for-profit agencies in the delivery of care to children in out-of-home placements.
- Government must ensure strong legislation, policy, regulation and oversight are in place to support this approach.
- Develop a rigorous licensing process to ensure agencies have the capacity of delivery quality care to children and youth.
- Some participants felt that this approach could be successful for both family-based and residential group care, while others were concerned about the potential impact on foster families and cautioned against creating a multi-tiered system of care for children.
- Consider changing the CSSD service delivery model as it relates to foster parent recruitment, training and support to better sustain the foster care program.
- Consider ways to increase the number of available family-based care options for children and youth.



Question: How can the department improve permanency planning for children in care?

When the Department of Children, Seniors and Social Development becomes involved with a family, the goal is to make a plan for the child in his or her best interests. The department works with families to provide services to allow children to safely stay at home. However, sometimes risks cannot be reduced and an out-of-home placement is necessary. In all instances, the department acts to ensure that children have permanent plans to ensure the child's safety, health and well-being.

Participants provided the following feedback on permanency planning for children in care:

- Consider ways to support families to prevent maltreatment from occurring, or re-occurring, so children can remain safely at home, or return home if they have been taken into care.
- Consider ways to provide intensive services to families to prevent removal or immediately after removal occurs to support children returning home, when possible.
- Maintain the temporary custody order timelines provided in the *CYCP Act* as these are satisfactory.
- Consider ways to reduce wait times and increase availability of services families need to mitigate identified risks in their home.
- Consider ways to address delays in court proceedings including available court time and timely access to legal aid services for parents.
- Consider implementing Family Group Conferencing as a means to resolve child protection matters outside of court.
- Prioritize adoption planning for children who are in continuous custody and available to be adopted.
- Consider ways to ensure permanency for older children in care.
- Ensure disability related supports are considered when developing permanent plans for children and youth.
- Consider ways to improve placement stability for children and youth in care.



Question: How can the Youth Services Program be more responsible to ensure it meets the unique needs of vulnerable youth?

The department provides services to youth in need of protection under the voluntary Youth Services Program (YSP). The Minister of CSSD has been directed to conduct a review of the YSP to ensure it is responsive to the unique needs of vulnerable youth and does not discriminate based on whether a youth was in the care of the department when they turned 16 years old.

Participants suggested that CSSD consider the following regarding services to youth:

- Increasing the definition of child from 16 to 18 to provide greater access to services, including a duty to report maltreatment and an ability to be removed from parental care.
- Increasing the age at which youth can choose to leave continuous custody by removing a youth's ability to "opt-out."
- Supporting youth having choice in the type of services they require and wish to receive, especially once they reach 16 years of age.
- Making the Youth Services Program less restrictive, especially for youth who are unable to meet current eligibility requirements or who leave the program and would like to come back.
- Expanding the eligibility criteria so all youth determined to be in need of protective intervention receive the same level of service, regardless of whether they were in care at 16.
- Ensuring youth have timely access to services including mental health and addiction counselling, life skills development, education, and employment support.
- Improving access to safe and affordable housing options for youth.
- Developing semi-independent transitional housing options would support youth to gain independence.
- Improving the coordination of services across government departments and across the transition from child/youth services to adult systems.
- Supporting youth through the Youth Services Program past the age of 21, with some suggesting support be provided until age 24 or 25.
- Improving supports to youth in rural communities.
- Developing policies to better support young parents accessing the Youth Services Program.
- Collaborating with community service providers to deliver services to youth.
- Enhancing financial support to allow youth to maintain a better standard of living.
- Minimizing the financial disincentives to employment by allowing youth to keep more of their financial allowances when they attain a part time job



Question: How can the *CYCP Act* be enhanced to recognize the unique needs of Aboriginal children, youth and their families?

In Newfoundland and Labrador, the Department of Children, Seniors and Social Development is responsible for providing child protection services to all children, youth and families. The *CYCP Act* currently references “culture, identity and community connections”; however, the uniqueness of Aboriginal culture is not explicitly referenced in the *CYCP Act*.

Participants recommended the following to recognize Aboriginal children, youth and families in the *CYCP Act*:

- Define Aboriginal child and youth and include specific reference to the unique Innu, Inuit and Mi’kmaq identities.
- Add considerations to the best interests principles to acknowledge factors that are unique to Aboriginal culture, including the importance of connection to culture, language and community for Aboriginal children and youth.
- Require information sharing between CSSD and designated individuals in Aboriginal communities throughout involvement with a family, including when any court action is taken.
- Ensure culture is considered when planning services for the child, youth or family, especially where children are taken into care.
- Add specific placement considerations that must be taken into account when Aboriginal children are placed outside of their home.
- Require the development of cultural continuity plans for children placed in non-Aboriginal homes.
- Ensure representatives of Aboriginal governments or organizations have an opportunity to be involved in planning for services for Aboriginal children.
- Implement Family Group Conferencing as a means to resolve child protection matters outside of court.
- Ensure cultural competency training is available for CSSD staff and foster parents.
- Support access to prevention services within Aboriginal communities.
- Create an Aboriginal Child Advocate or Ombudsman.
- Develop provisions which would allow Aboriginal governments or organizations to deliver child protection services as delegated agencies.



Other Things We Heard

In addition to comments on the six identified areas for review, the following feedback was offered:

- Consider whether the *CYCP Act* may be amended to provide authority to intervene when children and youth run away from home and their safety cannot be ensured.
- Consider ways to improve the child protection response where custody and access disputes exist between the parents of the child.
- Consider the increasing population of new Canadians in the province and ensure these families are provided with supports and services that are culturally sensitive.
- Consider the need for disability related supports for children, youth and families receiving services under the *CYCP Act*.
- Consider requiring individuals to report suspected maltreatment directly to the department, rather than the department or the police.
- Consider ways to better train and mentor new social workers and reduce staff turnover to improve the quality of supports and service to children, youth and families.

Next Steps

Thank you to everyone who participated in this review process by providing a written submission, joining a focus group discussion, or completing a questionnaire. Your input is critical to the review of the *CYCP Act* and efforts to strengthen and improve the legislation guiding the child protection, in care and youth services programs in this province.

As we go forward, participant input will be considered along with research and best practice information to identify ways in which the legislation may be improved.



Legislative Review

Review of the *Children and Youth Care and Protection Act*
September 2017

Background

- The *Children and Youth Care and Protection Act (CYCP Act)* was proclaimed on June 30, 2011. The purpose is to promote the safety and well-being of children and youth who are in need of protection. The *CYCP Act* provides authority to deliver child protection, in care and youth services.
- The *CYCP Act* includes a provision for a statutory review every five years. This was publicly announced and commenced on June 30, 2016.
- From June 30 – December 31, 2016, CSSD conducted public consultations on the statutory review.
- On May 9, 2017, CSSD provided a presentation to SPC and subsequently was asked to return with options on how to enhance prevention services for children not on a child protection caseload and advise on whether legislative changes to the *CYCP Act* are required.
- On July 20, 2017, CSSD returned SPC with options and recommendations for prevention.

Review Process

- A discussion guide was posted online which outlined 6 key areas for the review.
- Over 30 organizations participated through in-person and virtual dialogue sessions, focus groups, and written submissions.
- 173 surveys were received from children, youth and families and CSSD staff.
- A *What we Heard* document was posted on line in April 2017 .
- A jurisdictional scan and review of child welfare literature was conducted to inform the recommendations for this review.

Proposed Legislative Changes

1. Information sharing

- CSSD will eliminate barriers that currently impede information sharing to ensure all relevant information is available to protect the safety and well being of children.

2. Prevention services

- CSSD will enhance the *CYCP Act* language to focus more on supporting parents on a child protection caseload to care for their children in their own home where it is in the best interest to do so.
- Options to enhance prevention services for children not on child protection caseload will be discussed later in this presentation.

Proposed Legislative Changes

3. Licensing and regulation of out-of-home placements

- CSSD proposes to include an enabling provision for licensing and regulation of foster homes and residential placements to improve quality and accountability of service providers and reduce the number of high cost residential placements (e.g., Individualized Living Arrangements) by increasing the number of foster homes.

4. Improve permanency planning

- CSSD will strengthen and support permanency planning provisions to support children and youth to reside with a relative or family friend on a permanent basis through the transfer of legal custody. This will result in obtaining legal permanency for children and youth in a more timely manner and less children living in foster homes and residential placements.

Proposed Legislative Changes

5. Enhance the Youth Services program

The Minister's mandate letter requires a review of the Youth Services program to remove discrimination based on whether a youth was in care before 16 and to enhance support to vulnerable youth.

CSSD proposes amendments to address the Ministers mandate letter, the youth services program review and better align our legislation with the rest of Canada:

1. Allow youth to receive services up to their 21st birthday regardless of whether they were in care on their 16th birthday (\$1.2 M).
2. Remove the requirement for youth to be in an educational or rehabilitative program in order to receive services (no immediate cost).
3. Extend the age for mandatory reporting of child maltreatment from the 16th birthday to the 18th birthday (\$150 K).
4. Remove the option for youth to leave continuous custody before their 18th birthday (\$75 K).
5. Provide additional staffing to align with the CSSD staffing model to support the proposed amendments (\$200 K).

Proposed Legislative Changes

6. Improve services to Indigenous children, youth and families

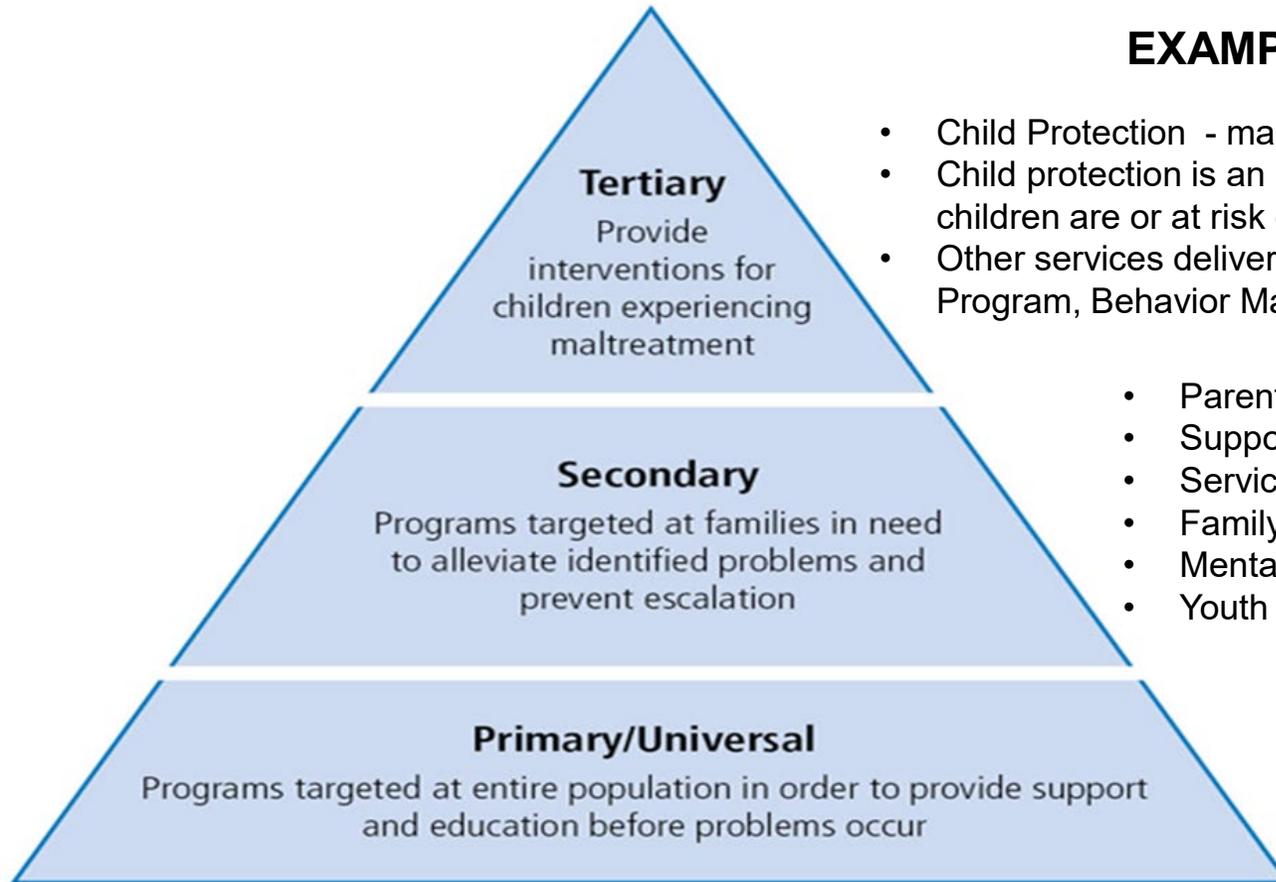
- CSSD proposes amendments in the *Act* to recognize the uniqueness and importance of Indigenous culture and support collaboration with Indigenous Governments/Organizations by increasing involvement in case planning and decision making to help address the overrepresentation of indigenous children in care.
- The proposed amendments will also support cultural continuity planning, to maintain connections to culture and community, when children are removed due to safety issues.
- CSSD also proposes enabling provisions for delegation of service delivery to allow Indigenous Governments/Organizations to deliver child welfare services.

Other Amendments

Minor legislative adjustments

- These amendments are technical in nature and address process and procedural issues identified by CSSD staff and Department of Justice and Public Safety.
- All proposed amendments are outline in Annex B.

Types of Prevention



EXAMPLES OF PREVENTION IN NL

- Child Protection - mandated program under the *CYCP Act*
 - Child protection is an intensive assessment based program targeted at families where children are or at risk of maltreatment.
 - Other services delivered under the protection program include: Triple P Parenting Program, Behavior Management Services, counselling and financial services.
-
- Parent support groups and programs (Janeway Resource Center)
 - Support and assistance to expecting and new mothers (HCS - Public Health)
 - Services for families that have children with special needs (Community Living)
 - Family Resource Centers (EECD)
 - Mental Health and Addictions (HCS)
 - Youth Outreach
-
- Drug Awareness and Resistance Education (DARE)
 - Students Taking Responsibility in Violence Education (STRIVE)
 - Safe Sleep Campaigns
 - Nobody's Perfect Parenting Program

Jurisdictional Review - Prevention

- **Tertiary prevention** services, where a child is in need of protection, are delivered by the majority of Canadian child welfare jurisdictions (including NL) through the child welfare program.
- **Primary and secondary prevention** is generally shared across government and within communities.
- Jurisdictions have taken the approach that effective prevention and early intervention services require a collaborative cross-departmental and cross-sector approach. Integration with other government departments is necessary, as many of the services children, youth and families require are not delivered under one department or agency.
- Some jurisdictions have initiated frameworks for prevention and early intervention that focus on community partnerships and capacity building.

Best Practices – Prevention

- Research on prevention highlights that a proactive and early approach to service provision is critical to supporting vulnerable families and mitigating risk issues that are exacerbated when supports are not provided.
- Protective factors are necessary in order to have healthy children, families and communities. Services should be accessible in the community and non-stigmatizing in order to support families.
- Community agencies are critical to providing secondary prevention services and the role of government is to set policy, standards and to provide oversight and monitoring.

Options:

1. Proceed with proposed amendments to enhance tertiary prevention and address secondary prevention through policy and program development (recommended)

- Proceed with drafting all proposed amendments and approve \$1.6 million to implement the recommended legislative amendments associated with all 5 enhancements to the Youth Service program.
- CSSD make improvements to tertiary prevention services for the child protection program and provide a leadership role in the development of secondary prevention services through the establishment of a division to lead this work pending Budget 2018-19 approval process.

2. Proceed with proposed amendments and legislate secondary prevention services in the *CYCP Act*

- Proceed with drafting all proposed amendments and approve \$1.6 million to implement the recommended legislative amendments associated with all 5 enhancements to the Youth Service program.
- Include a family services provision in the *CYCP Act* to allow the department to develop and deliver secondary prevention services to vulnerable families

Time Lines

- Bill passed (3 readings) - Fall 2017
- Phased Proclamation
 - June 30th, 2018 - Early proclamation of amendments to support information sharing and service delivery to Indigenous children, youth and families.
 - December 30th, 2018 – Proclamation of remaining Bill.